

House Bill 661 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 115<sup>th</sup>, Powell of the 171<sup>st</sup>, and Harrell of the 106<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 15, 44, and 48 of the Official Code of Georgia Annotated, relating to courts,  
2 property, and revenue and taxation, respectively, so as to revise provisions relating to the  
3 transmittal, filing, recording, access to, and territorial effect of tax liens issued by the  
4 Department of Revenue; to provide for electronic record keeping relating to the filing and  
5 public access to state tax liens; to provide for duties and responsibilities of the Georgia  
6 Superior Court Clerks' Cooperative Authority; to provide for related matters; to provide for  
7 an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
11 amended by revising subsections (e) and (f) of Code Section 48-2-56, relating to priority of  
12 liens for taxes, as follows:

13 "(e) The lien for taxes imposed by the provisions of Article 2 of Chapter 7 of this title,  
14 relating to certain income taxes, shall:

15 (1) Arise and attach to all property of the taxpayer ~~within the state~~ as of the time a tax  
16 execution for these taxes is filed with the clerk of superior court of the county of the last  
17 known address of the taxpayer appearing on the records of the department at the time the  
18 state tax execution is filed; and

19 (2) ~~Not attach to the interest of a prior bona fide purchaser where a certificate of~~  
20 ~~clearance is required and has been obtained or where a certificate of clearance is not~~  
21 ~~required pursuant to Code Section 44-1-18, nor be superior to the lien of a prior recorded~~  
22 instrument securing a bona fide debt.

23 Before the lien provided for in this subsection shall attach to real property, an execution  
24 shall be filed with the clerk of superior court in the county where the real property is  
25 located.

26 (f) The lien for taxes imposed by the provisions of Article 5 of Chapter 7 of this title,  
27 relating to withholding taxes, shall:

28 (1) Arise and attach to all property of the defaulting employer or other person required  
29 to deduct and withhold on the date of the assessment of the taxes by operation of law or  
30 by action of the commissioner;

31 ~~(2) Not attach to the interest of a prior bona fide purchaser where a certificate of~~  
32 ~~clearance is required and has been obtained or where a certificate of clearance is not~~  
33 ~~required pursuant to Code Section 44-1-18, nor be superior to the lien of a prior recorded~~  
34 instrument securing a bona fide debt; and

35 (3) Not attach to the interest of a subsequent bona fide purchaser ~~where a certificate of~~  
36 ~~clearance is required and has been obtained or where a certificate of clearance is not~~  
37 ~~required pursuant to Code Section 44-1-18, nor be superior to the lien of a lender for~~  
38 value recorded prior to the time the execution for the tax has been filed in the office of  
39 the clerk of superior court of the county of the last known address of the taxpayer  
40 appearing on the records of the department at the time the state tax execution is filed.  
41 Before the lien provided for in this subsection shall attach to real property, an execution  
42 shall be filed with the clerk of superior court in the county where the real property is  
43 located."

#### 44 SECTION 2.

45 Said title is further amended by revising Code Section 48-3-21, relating to nonresident  
46 procedures for petitions to reduce execution to judgment, as follows:

47 "48-3-21.

48 ~~All~~ Except for executions issued by the commissioner, all county, municipal, or other tax  
49 executions, before or after legal transfer and record, shall be enforced within seven years  
50 from:

51 (1) The date of issue; or

52 (2) The time of the last entry upon the tax execution by the officer authorized to execute  
53 and return the execution if the execution and entry are properly entered or reentered upon  
54 the execution docket or books in which executions issued on judgments and entries on  
55 executions issued on judgments are required to be entered or reentered."

#### 56 SECTION 3.

57 Said title is further amended by revising Code Section 48-3-28, relating to entry of  
58 satisfaction duly recorded on lien docket, as follows:

59 "48-3-28.

60 ~~An entry of satisfaction shall be made on the lien docket in the office of the clerk of~~  
 61 ~~superior court as soon as reasonably possible after a tax execution has been fully satisfied,~~  
 62 ~~except as otherwise provided in this chapter. The department shall file a release of any~~  
 63 ~~state tax execution as soon as reasonably possible after a tax execution has been fully~~  
 64 ~~satisfied. All such releases shall be filed in all offices of the clerks of superior court where~~  
 65 ~~the executions were originally filed."~~

66 **SECTION 4.**

67 Said title is further amended by revising Article 2 of Chapter 3, relating to uniform system  
 68 for filing state tax executions, as follows:

69 "ARTICLE 2

70 48-3-40.

71 (a) The purpose of this article is to provide a uniform state-wide system for filing notices  
 72 of state tax executions issued by the commissioner that are in favor of or enforced by the  
 73 department.

74 (b) This article shall only be applicable to state tax executions and to the liens of state tax  
 75 executions as against real and personal property which arise pursuant to Code Section  
 76 48-2-56 for tax liabilities administered by the department.

77 (c) As used in this article, the term:

78 (1) 'Authority' ~~shall mean~~ means the Georgia Superior Court Clerks' Cooperative  
 79 Authority.

80 ~~(2) 'Certificate of clearance' shall mean a document issued by the department affirming~~  
 81 ~~that a proper search has been conducted by the department and has yielded no active liens~~  
 82 ~~associated with an individual or entity.~~

83 ~~(3)~~(2) 'Delinquent taxpayer' means a person owing an unpaid tax liability ~~that is~~  
 84 collectable for which an execution has been filed by the department, unless such  
 85 execution is released, withdrawn, or expired.

86 ~~(4)~~(3) 'Execution' ~~shall mean~~ means either a state tax execution or a renewed state tax  
 87 execution, as applicable.

88 ~~(5)~~(4) 'Last known address of the delinquent taxpayer' means the address of the  
 89 delinquent taxpayer appearing on the records of the department at the time the state tax  
 90 execution is filed with the superior court clerk.

91 ~~(6)~~(5) 'Renewed state tax execution' means any tax execution properly filed by the  
 92 department prior to January 1, 2018, that is refiled upon implementation of this article.

93 ~~(7)~~(6) 'State tax execution' means any execution issued by the department for the  
94 collection of any tax, fee, license, penalty, interest, or collection costs due the state.

95 ~~(8) 'URPERA' shall mean the Uniform Real Property Electronic Recording Act found~~  
96 ~~at Code Section 44-2-35, et seq.~~

97 ~~(9) 'URPERA rules' shall mean the rules adopted by the Georgia Superior Court Clerks'~~  
98 ~~Cooperative Authority pursuant to the Uniform Real Property Electronic Recording Act.~~

99 48-3-41.

100 The department may issue an execution for the collection of any tax, fee, license, penalty,  
101 interest, or collection costs due the state once a lien has arisen pursuant to Code Section  
102 48-2-56. ~~An execution shall be a lien in favor of the department upon all property and right~~  
103 ~~to property, whether real or personal, within the State of Georgia, belonging to the~~  
104 ~~delinquent taxpayer named on the execution.~~

105 48-3-42.

106 (a) On or after January 1, 2018, the execution shall be effective as provided by law when  
107 such execution is filed by the department with the appropriate superior court clerk.

108 (b) All executions or writs of fieri facias issued by the department filed or recorded on the  
109 general execution docket or lien docket of any county shall be invalid as of December 31,  
110 2017. Any such execution or writs of fieri facias which the department does not show as  
111 satisfied, issued in error, or otherwise withdrawn and which was last recorded or rerecorded  
112 on the general execution docket within seven years before January 1, 2018, may be  
113 renewed for a period of ten years upon the department's filing a renewed state tax execution  
114 with the clerk of superior court ~~on or after~~ between January 1, 2018, and the effective date  
115 of this Act. For priority purposes, a filed renewed state tax execution shall retain its  
116 original date of filing ~~on the general execution docket or lien docket~~. All renewed state tax  
117 execution documents shall reflect the original date of filing.

118 (c) On or after January 1, 2018, any execution and any related releases, cancellations, or  
119 other documents submitted by the department for filing with the clerk of superior court  
120 shall be submitted for filing electronically.

121 (d) An execution filed or renewed after January 1, 2018, pursuant to this Code section  
122 shall be a lien against and attach to all existing and after-acquired property of the  
123 delinquent taxpayer, both real and personal, tangible and intangible, ~~located in any county~~  
124 ~~and in all counties within the State of Georgia~~, with the same force and effect as any  
125 recorded judgment on the lien docket of the superior court clerk.

126 (e) An execution electronically transmitted to the authority pursuant to this Code section  
127 shall be deemed filed and perfected upon its receipt by the authority for transmission to the

128 applicable clerk of superior court. The authority shall provide to the department  
 129 confirmation of receipt of an execution. Absent evidence of such confirmation there shall  
 130 be no presumption of filing. Executions filed shall have priority as provided by law.

131 (f) The lien of an execution filed pursuant to this Code section shall continue in effect until  
 132 released or withdrawn by the department or until the execution has expired.

133 (g) The department shall file an execution within five years of the date of a final  
 134 assessment. An execution filed or renewed after January 1, 2018, shall expire ten years  
 135 from the date of filing and shall not be subject to renewal by nulla bona or otherwise. ~~Said~~  
 136 ~~expiration period~~ The periods of limitation set forth in this subsection shall be tolled and  
 137 suspended for:

138 (1) The duration of an installment agreement between the taxpayer and the commissioner  
 139 for any tax liabilities contained within an execution plus an additional 90 days;

140 (2) If a timely proceeding in court for the imposition or collection of a tax is commenced,  
 141 the duration of the period until the liability for the tax or a judgment against the taxpayer  
 142 arising from such liability is satisfied or becomes unenforceable;

143 (3) The duration of any enforcement action to collect the liability contained within an  
 144 execution initiated prior to the expiration of the period of limitations and released after  
 145 such period of limitations;

146 (4) In a case under Title 11 of the United States Code, the running of the period of  
 147 limitations provided in this Code section shall be suspended and tolled for the period  
 148 during which the commissioner is prohibited from collecting any tax liability and six  
 149 months thereafter; or

150 (5) The period during which a taxpayer's offer-in-compromise is under consideration by  
 151 the commissioner.

152 (h) All executions filed by the department on or after the effective date of this Act shall  
 153 only attach to real property in the county in which the execution has been filed. After the  
 154 effective date of this Act, no execution previously filed by the department shall be  
 155 considered to have state-wide attachment to all real property within the state and shall only  
 156 attach to real property in the county in which the execution has been filed.

157 48-3-43.

158 (a) The department shall maintain information on executions in its information  
 159 management system in a form that permits information related to executions to be readily  
 160 accessible in an electronic form via the Internet and available to the public. The following  
 161 shall be available within such system at no charge to the public:

- 162 (1) Search by delinquent taxpayer name, execution number, last four digits of the  
 163 taxpayer's social security number, or, when applicable, federal employee identification  
 164 number;
- 165 (2) Search by identification number assigned to the execution by the department;
- 166 (3) The basis for an execution, including, but not limited to, the amount of the taxes,  
 167 penalties, interest, and fees owed, and the tax periods and relevant assessment dates of  
 168 the taxes owed;
- 169 (4) The place, date, and time of the filing of the execution;
- 170 (5) The status of the execution as defined in subsection (b) of this Code section;
- 171 (6) The present balance of the execution;
- 172 (7) Provision of official electronic copies of an execution; and
- 173 ~~(8) Provision and issuance of official statements of lien pursuant to Code Section~~  
 174 ~~44-1-18;~~
- 175 ~~(9) Provision and issuance of official certificates of clearance pursuant to Code Section~~  
 176 ~~44-1-18;~~
- 177 ~~(10) Search by identification number assigned to certificates of clearance; and~~
- 178 ~~(11)~~(8) Notwithstanding Code Sections 48-2-15 and 48-7-60, provision Provision and  
 179 issuance of official payoff information as to any execution ~~pursuant to Code Section~~  
 180 ~~44-1-18.~~
- 181 (b) An execution shall hold one of the following official statuses on the department  
 182 information system and such status shall be available, except as provided below, and on the  
 183 electronic printable forms of state tax executions:
- 184 (1) Active — The execution is perfected and enforceable;
- 185 (2) Withdrawn — The execution was issued in error and is not enforceable. Within two  
 186 business days from the date the department discovers an error in the filing of an  
 187 execution, it shall change the status of the execution to withdrawn. Such execution shall  
 188 be treated as though it was never filed;
- 189 (3) Released — The execution has been released ~~or canceled~~ and is no longer  
 190 enforceable. Within 15 business days from the department's receipt of payment in full  
 191 of an execution, the department shall change the status of the execution to released. The  
 192 department may release an unpaid execution that the department determines is not legally  
 193 or practically collectable;
- 194 (4) Refiled — If an execution is released in error, the department may file a new  
 195 execution for any outstanding, finally determined tax liability to bear an active status as  
 196 of the date of the new recording; and
- 197 (5) Expired — The execution has expired pursuant to Code Section 48-3-42 and is  
 198 unenforceable.

199 (c) The department shall provide to the authority such electronic linking data elements as  
 200 may be required by the authority to link filed executions found in the authority's state-wide  
 201 uniform automated information system for real and personal property records to the  
 202 matching data related to the execution in the department's information management system.

203 (d) The department's information management system as provided for in this Code section  
 204 shall constitute a public record and the department shall redact information in accordance  
 205 with Code Section 9-11-7.1.

206 (e) The department's information management system as provided for in this Code section  
 207 shall not be used for survey, marketing, or solicitation purposes. Survey, marketing, or  
 208 solicitation purposes shall not include any action by the department or its authorized agents  
 209 to collect a debt on an execution. The Attorney General is hereby authorized to bring an  
 210 action at law or in equity to address the unlawful use of such information for a survey,  
 211 marketing, or solicitation purpose and to recover the costs of such action, including  
 212 reasonable attorney's fees.

213 (f) The commissioner may adopt reasonable rules and regulations providing for the  
 214 maintenance, reliability, accessibility, and use of the department's information management  
 215 system. Such rules and regulations may address, among other matters, the authenticity of  
 216 the electronic printable executions and issues related to periods during which the  
 217 information system may be unavailable for use due to routine maintenance or other  
 218 activities.

219 48-3-44.

220 ~~(a)~~ An execution bearing a 'Released' status on the department's information management  
 221 system shall constitute a complete release of the execution by the department and of the  
 222 department shall also timely file the release of the lien in the office of the clerk of superior  
 223 court where the execution was filed as required by Code Section 48-3-28.

224 ~~(b) A certificate of clearance issued by the department shall be deemed an effective release~~  
 225 ~~of an execution. The department shall provide to the delinquent taxpayer, within 30 days~~  
 226 ~~of the date of payment, a notice of the release of the execution and shall cause a release of~~  
 227 ~~the execution to be filed with the applicable superior court clerk."~~

## 228 SECTION 5.

229 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 230 Code Section 15-6-97.3, relating to revision of automated information system for state tax  
 231 execution data and regulatory authority, as follows:

232 "15-6-97.3.

233 (a) The Georgia Superior Court Clerks' Cooperative Authority or its designated agent shall  
 234 revise the state-wide uniform automated information system for real and personal property  
 235 records as provided for in Code Section 15-6-97 to provide for the inclusion in such system  
 236 functionality as provided in this Code section for state tax executions and renewed state tax  
 237 executions electronically filed with clerks of superior court as provided for in Article 2 of  
 238 Chapter 3 of Title 48.

239 (b) As used in this Code section, the term 'state tax execution' shall be inclusive of the term  
 240 'renewed state tax execution.'

241 (c) Effective January 1, 2018, the state-wide uniform automated information system for  
 242 real and personal property records shall be revised to provide the following function and  
 243 utility related to state tax executions:

244 ~~(1) Electronic query of the Georgia consolidated lien indexes for state tax execution~~  
 245 ~~instrument types by direct party name to include state-wide results of all state tax~~  
 246 ~~executions filed for such party regardless of any applied county limiting search filter;~~

247 ~~(2) Electronic query of the Georgia consolidated lien indexes for all lien types by direct~~  
 248 ~~party name to include state-wide results of all state tax executions filed for such party~~  
 249 ~~regardless of any applied county limiting search filter;~~

250 ~~(3) A secondary electronic query of the results returned by a search performed pursuant~~  
 251 ~~to paragraphs (1) and (2) of this subsection by the last four digits of a social security~~  
 252 ~~number or federal employer identification number which will render results of state tax~~  
 253 ~~executions associated with such number;~~

254 ~~(4)~~(1) An electronic link from an index data record of a state tax execution found in the  
 255 system to the Department of Revenue information management system to provide users  
 256 access to detailed information; and status; ~~and clearance certificates~~ from the department  
 257 system. The Department of Revenue shall provide to the authority such electronic linking  
 258 data elements as may be required by the authority to link filed executions found in the  
 259 state-wide uniform automated information system for real and personal property records  
 260 to the matching data on the execution in the Department of Revenue information  
 261 management system; and

262 ~~(5)~~(2) A searchable electronic filing submission docket or other means which allows a  
 263 search by direct party name, as provided by the Department of Revenue, for state tax  
 264 executions which have been submitted to the authority for filing with a clerk of superior  
 265 court pending the inclusion of final index data for such execution into the Georgia  
 266 consolidated lien indexes. Search features shall be available for an execution upon its  
 267 receipt by the authority.

268 (d) The Georgia Superior Court Clerks' Cooperative Authority shall have authority to  
 269 promulgate rules and regulations necessary to develop and implement the provisions of this  
 270 Code section."

271

**SECTION 6.**

272 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
 273 revising Code Section 44-1-18, relating to execution search prior to conveyance of property,  
 274 as follows:

275 "44-1-18.

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

277 (1) ~~'Certificate of clearance' or 'certificate' shall mean a document issued by the~~  
 278 ~~department affirming that a proper search has been conducted by the department and has~~  
 279 ~~yielded no active liens associated with an individual or entity, as provided for in Article~~  
 280 ~~2 of Chapter 3 of Title 48.~~

281 (2) ~~'Current owner' means:~~

282 (A) ~~The individual or entity vested with fee simple title to a parcel of real property; or~~

283 (B) ~~Where fee simple title to a parcel of real property has been vested by:~~

284 (i) ~~A joint tenancy with survivorship rights, then the survivor of such joint tenancy;~~

285 (ii) ~~A deed in lieu of foreclosure, then the grantor of such deed;~~

286 (iii) ~~An order of a probate court providing for:~~

287 (I) ~~An executor, administrator, and granting an order declaring no administration~~  
 288 ~~necessary, then the deceased subject party of such probate proceeding; or~~

289 (H) ~~A conservator, custodian, or guardian, then the ward subject party of such~~  
 290 ~~probate proceeding;~~

291 (iv) ~~A deed into a trustee of a trust in which the party to an execution is the trustor;~~  
 292 ~~then:~~

293 (I) ~~Where an execution attaches to the trustor prior to the trustor's conveyance to~~  
 294 ~~the trust, then the trustor; and~~

295 (H) ~~Where an execution attaches to the trustor after the trustor's conveyance to the~~  
 296 ~~trust, then the trustee of such trust in his or her capacity as trustee and the trust,~~  
 297 ~~which trust shall obtain a distinct federal employee identification number;~~

298 (v) ~~An order of a court providing:~~

299 (I) ~~Award of real property to a spouse in a divorce proceeding, then the spouse so~~  
 300 ~~awarded fee simple title to the property;~~

301 (H) ~~Award of real property in a quiet title action as provided in Code Section~~  
 302 ~~23-3-40, et seq., and Code Section 23-3-60, et seq., then the successful petitioner~~  
 303 ~~of such action, provided proper service was effectuated upon the department; or~~

- 304 ~~(H) Award of real property in an action to partition the property; where the~~  
 305 ~~property is physically partitioned into separate parcels, then the party vested with~~  
 306 ~~title to each such partitioned parcel, and where the property is ordered sold and the~~  
 307 ~~proceeds of such sale partitioned, then to each party to the extent of their interest in~~  
 308 ~~said proceeds;~~
- 309 ~~(vi) The death of a life tenant, then the remaindermen of such life estate;~~  
 310 ~~(vii) The termination of an executory trust, then the vestees of such trust;~~  
 311 ~~(viii) The merger of entities wherein one or more of the entities is a party to an~~  
 312 ~~execution, then both the acquired and acquiring parties; or~~  
 313 ~~(ix) Voluntary deed to a condemnor for compensation as provided in Title 22, then the~~  
 314 ~~grantor in such deed.~~
- 315 ~~(3) 'Department' shall mean the Georgia Department of Revenue.~~  
 316 ~~(4) 'Execution' shall mean either a state tax execution or a renewed state tax execution~~  
 317 ~~as defined in Article 2 of Chapter 3 of Title 48.~~  
 318 ~~(5) 'Statement of lien' or 'statement' shall mean a document issued by the department:~~  
 319 ~~(A) Affirming that an active execution, as provided for in Article 2 of Chapter 3 of~~  
 320 ~~Title 48, is associated with the current owner;~~  
 321 ~~(B) Providing the identification reference number assigned to the execution by the~~  
 322 ~~department; and~~  
 323 ~~(C) Providing information to contact the department through the department's~~  
 324 ~~information management system for payoff information of such execution.~~
- 325 ~~(b) Prior to the conveyance of real property upon which a title is transferred, any holder~~  
 326 ~~of a fee simple interest in real property, licensed attorney at law, or title insurance company~~  
 327 ~~shall be entitled to, upon request from the department:~~  
 328 ~~(1) A certificate of clearance; or~~  
 329 ~~(2) A statement of lien.~~
- 330 ~~(c) The department shall only require a certificate of clearance for the current owner of the~~  
 331 ~~property to be conveyed at the time of the conveyance, and shall not require a certificate~~  
 332 ~~of clearance as to any previous owners or title holders of such property.~~
- 333 ~~(d) Subject to the provisions of subsection (n) of this Code section, all executions against~~  
 334 ~~any party previously vested with title other than the current owner shall be of no force and~~  
 335 ~~effect as to the title of, and shall not be a lien against, any real property owned by the~~  
 336 ~~current owner.~~
- 337 ~~(e) All requests for a certificate of clearance made to the department shall:~~  
 338 ~~(1) Be in writing;~~  
 339 ~~(2) State the name, address, e-mail address, and telephone number of the requestor;~~

- 340 ~~(3) State whether the requestor is the owner of the real property, an attorney at law, or~~  
341 ~~a title insurance company;~~
- 342 ~~(4) State the name of the current owner of the real property;~~
- 343 ~~(5) State an e-mail address to which the certificate or statement can be directed; and~~
- 344 ~~(6) Provide a certification that the information provided therein is true and correct to the~~  
345 ~~best of the requestor's knowledge.~~
- 346 ~~(f) All requests shall be transmitted to the department by electronic means through the~~  
347 ~~department's information management system or be delivered to the registered address of~~  
348 ~~the department by certified mail, return receipt requested, or statutory overnight delivery.~~  
349 ~~Any request transmitted by electronic means shall be considered received on the first~~  
350 ~~business day following such transmission.~~
- 351 ~~(g) The information specified in the certificate of clearance shall be binding upon the~~  
352 ~~department as of the date of the certificate and for 30 days thereafter, during which time~~  
353 ~~the department shall not issue any new executions against the current owner designated in~~  
354 ~~the certificate.~~
- 355 ~~(h) The department shall furnish a certificate of clearance or statement of lien, as~~  
356 ~~applicable, to the requestor immediately upon request by electronic means through the~~  
357 ~~department's information management system or, if not available through such system, to~~  
358 ~~the e-mail address provided by the requestor within five business days of receipt of such~~  
359 ~~request.~~
- 360 ~~(i) The failure of the department to provide a certificate or statement within such five-day~~  
361 ~~period shall cause any lien against real property arising from any execution against the~~  
362 ~~current owner to be extinguished and to be of no force and effect as to the title. Such~~  
363 ~~failure by the department to provide a certificate or statement shall be evidenced by a~~  
364 ~~recorded affidavit, signed by a licensed attorney at law, containing a statement that the~~  
365 ~~request was made pursuant to this Code section and that a certificate has not been issued~~  
366 ~~by the department and would not be found in the records of the department or otherwise,~~  
367 ~~with a copy of the acknowledgment of receipt of the request attached thereto.~~
- 368 ~~(j) The certificate of clearance may be recorded in the superior court of the county where~~  
369 ~~any real property owned by the current owner lies, and upon such recording shall be~~  
370 ~~conclusive evidence that through that certain date 30 days after the date of the certificate~~  
371 ~~no lien of the department attaches to the real property owned by the current owner referred~~  
372 ~~to in such certificate.~~
- 373 ~~(k) A copy of the certificate of clearance shall be maintained in the department's~~  
374 ~~information management system and shall be identified by an identification number~~  
375 ~~assigned to the certificate by the department, with such identification number being~~

376 required to be entered on the real estate transfer tax declaration form as required in Code  
377 Section 48-6-4:

378 ~~(1) If a statement of lien is issued and payoff information is acquired from the department  
379 pursuant to the reference information provided therein, such payoff information shall be  
380 binding upon the department as of the date such payoff information is received by any  
381 requesting party and for 30 days thereafter, during which time the department shall not  
382 issue any executions against the current owner designated in the statement, and upon  
383 payment in full of all sums due as set forth in any such payoff information:~~

384 ~~(1) All liens of the department against the real property owned by the current owner in  
385 existence as of the date of the statement shall be extinguished and all executions  
386 encumbering such real property shall be cancelled. The department shall provide proof  
387 of receipt of such payoff to the party remitting such payoff funds, and such proof may be  
388 recorded in the superior court of the county where the real property lies, and upon such  
389 recording shall be conclusive evidence that through the date of the statement no lien of  
390 the department attaches to any real property owned by the current owner referred to in  
391 such statement; and~~

392 ~~(2) If one or more executions are for any reason not set forth on such statement or payoff  
393 information, as to such omitted execution, said payment shall cause any lien against any  
394 real property owned by the current owner arising from any such omitted execution to be  
395 extinguished and to be of no force and effect as to the title:~~

396 ~~(m) Any person who files a request in accordance with this Code section which request is  
397 fraudulent shall be guilty of a misdemeanor and shall be punished by imprisonment for not  
398 more than 12 months or by a fine of not less than \$1,000.00 nor more than \$5,000.00, or  
399 both:~~

400 ~~(n) Noncompliance with any provision of this Code section shall preserve an execution  
401 properly executed and filed as provided for in Article 2 of Chapter 3 of Title 48 on real  
402 property on the date of any conveyance of such property:~~

403 ~~(o) This Code section shall not apply to any conveyance listed below and the grantee of  
404 any such conveyance shall take title to the real property free and clear of any execution or  
405 lien created from such execution existing at the time of such conveyance:~~

406 ~~(1) A foreclosure of a mortgage or security deed, wherein such mortgage or security deed  
407 has priority over any execution;~~

408 ~~(2) A receiver or trustee in a bankruptcy proceeding;~~

409 ~~(3) A judicial order resulting from an action regarding condemnation, forfeiture, and  
410 judicial foreclosure, wherein the department was properly provided personal service of  
411 such action;~~

412 ~~(4) A tax sale performed by the Internal Revenue Service;~~

413 ~~(5) A year's support order by operation of law; or~~  
 414 ~~(6) A tax sale conducted by any sheriff, tax commissioner, or municipal levying officer~~  
 415 ~~in this state, provided that proper service was effectuated on the department in accordance~~  
 416 ~~with Code Section 48-4-45,~~  
 417 ~~and upon such conveyance all liens of the department against the real property owned by~~  
 418 ~~the current owner of such property as of the date of such conveyance shall be extinguished~~  
 419 ~~and all executions encumbering such real property shall be cancelled.~~  
 420 ~~(p) The certificate of clearance shall be signed by the state revenue commissioner, or~~  
 421 ~~authorized agent thereof, and shall contain certifications from the department regarding:~~  
 422 ~~(1) Identification of the current owner;~~  
 423 ~~(2) That upon statutory request by a proper party in accordance with this Code section,~~  
 424 ~~an examination of the department records was made by the department;~~  
 425 ~~(3) That upon such examination by the department, the current owner as shown in the~~  
 426 ~~certificate has no active liens associated with such party by an execution or lien arising~~  
 427 ~~therefrom; and~~  
 428 ~~(4) The certificate is given pursuant to this Code section.~~  
 429 ~~(q) The state revenue commissioner shall promulgate such rules and regulations not in~~  
 430 ~~conflict with this Code section as may be necessary and appropriate to implement and~~  
 431 ~~administer this Code section. Reserved."~~

432 **SECTION 7.**

433 Said title is further amended by revising Code Section 44-2-2, relating to the duties of clerks  
 434 to record property transactions, as follows:

435 "44-2-2.

436 (a)(1) The clerk of the superior court shall file, index on a computer program designed  
 437 for such purpose, and permanently record, in the manner provided constructively in Code  
 438 Sections 15-6-61 and 15-6-66, the following instruments conveying, transferring,  
 439 encumbering, or affecting real estate and personal property:

440 (A) Deeds;

441 (B) Mortgages;

442 (C) Liens as provided for by law; and

443 (D) Maps or plats relating to real estate in the county; and

444 (E) State tax executions and state tax execution renewals as provided for in Article 2  
 445 of Chapter 3 of Title 48.

446 (2) As used in this subsection, the term 'liens' shall have the same meaning as provided  
 447 in Code Sections 15-19-14, 44-14-320, and 44-14-602 and shall include all liens provided  
 448 by state or federal statute.

449 (3) When indexing liens, the clerk shall ~~enter~~ index the names of ~~debtors in the index in~~  
 450 ~~the manner provided for names of grantors conveying real estate in subsection (b) of~~  
 451 ~~Code Section 15-6-66 and the names of creditors or claimants in the manner as provided~~  
 452 ~~therein for names of grantees making such conveyances. When indexing state tax~~  
 453 ~~executions and state tax execution renewals as provided by subparagraph (a)(1)(E) of this~~  
 454 ~~Code section, the clerk shall enter the names of the taxpayers in the manner provided for~~  
 455 ~~names of grantors conveying real estate in subsection (b) of Code Section 15-6-66 and~~  
 456 ~~the name 'GEORGIA STATE DEPT OF REVENUE' in the manner as provided therein~~  
 457 ~~for names of grantees making such conveyances. For state tax executions, the clerk shall~~  
 458 ~~also:~~

459 (A) ~~Index the last four characters of the taxpayer's social security number or the last~~  
 460 ~~four characters of the federal employer taxpayer number, as applicable to each~~  
 461 ~~taxpayer;~~

462 (B) ~~Index such state tax execution control number as provided by rule established by~~  
 463 ~~the Georgia Superior Court Clerks' Cooperative Authority;~~

464 (C) ~~Index using instrument types as provided by rule established by the Georgia~~  
 465 ~~Superior Court Clerks' Cooperative Authority; and~~

466 (D) ~~Transmit such data to the Georgia Superior Court Clerks' Cooperative Authority~~  
 467 ~~pursuant to the provisions of paragraph (15) of subsection (a) of Code Section 15-6-61~~  
 468 ~~parties in the manner provided by such rules and regulations adopted by the Georgia~~  
 469 ~~Superior Court Clerks' Cooperative Authority pursuant to the provisions of Code~~  
 470 ~~Section 15-6-61 as authorized by Code Section 15-6-97.~~

471 (4) When indexing maps or plats relating to real estate in the county, the clerk of superior  
 472 court shall index the names or titles provided in the caption of the plat.

473 (b) Deeds, mortgages, and liens of all kinds which are required by law to be recorded in  
 474 the office of the clerk of superior court and which are against the interests of third parties  
 475 who have acquired a transfer or lien binding the same property and who are acting in good  
 476 faith and without notice shall take effect only from the time they are filed for record in the  
 477 clerk's office.

478 (c) Nothing in this Code section shall be construed to affect the validity or force of any  
 479 deed, mortgage, judgment, or lien of any kind between the parties thereto."

#### 480 SECTION 8.

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

483

**SECTION 9.**

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