

House Bill 819 (COMMITTEE SUBSTITUTE)

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 a transfer of the  
4 execution is forthcoming; to change the timing of the sale of tax executions; to change  
5 certain procedures relating to redemption of property; to change the amount payable for  
6 redemption; to repeal the fee collected for issuing tax executions; to provide for related  
7 matters; to provide for 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 Code Section 48-3-3, relating to executions by tax collectors and  
12 commissioners, as follows:

13 "48-3-3.

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

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

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

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

25 (c) As soon as the last day for the payment of taxes has arrived, the tax collector or tax  
26 commissioner shall notify in writing the taxpayer of the fact that the taxes have not been

27 paid and that, unless paid, an execution shall be issued; provided, however, that notice shall  
28 not be required for taxes due on personal property and executions may be issued on the day  
29 next following the day when taxes are due.

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

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

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

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

61 **SECTION 2.**

62 Said title is further amended by revising paragraph (2) of subsection (a) and adding a new  
63 subsection in Code Section 48-3-19, relating to the transfer of tax executions, as follows:

64 "(2) 'Due diligence' means the performance of a diligent search to ascertain the actual  
65 location of the ~~record~~ owner of record of the property. The following ~~actions~~ action shall  
66 satisfy the diligent search requirements of this Code section: sending notice by first-class  
67 mail, certified mail, or statutory overnight delivery, as required by law. If the notice is  
68 returned undelivered, the following actions shall satisfy the diligent search requirements  
69 of this Code section: ~~due diligence shall include~~ checking telephone directories for the  
70 county wherein the property is located; checking Internet search engines and people  
71 finder data bases, which may include the use of online address verification products and  
72 services; checking the records of the tax commissioner of the county wherein the property  
73 is located; or checking the real estate records of the clerk of the superior court of the  
74 county wherein the property is located."

75 "(a.1) Prior to the transfer of any execution under the provisions of this Code section, the  
76 officer whose duty it is to enforce the execution shall perform a due diligence search in an  
77 effort to obtain the delinquent taxpayer's correct address or any new owner's correct  
78 address in order to provide the taxpayer with notice of the officer's intent to transfer the  
79 execution to a third party if full payment is not received in a timely manner. The due  
80 diligence search and notification required by this Code section shall be performed no  
81 sooner than 35 days prior to the officer being entitled to transfer the execution under  
82 paragraph (1) of subsection (b) of this Code section, and the officer shall not transfer the  
83 execution if the taxpayer remits the full value of the execution, including the principal  
84 amount and any penalty and interest, prior to the time the officer is entitled to transfer the  
85 execution under paragraph (1) of subsection (b) of this Code section."

86 **SECTION 3.**

87 Said title is further amended by revising Code Section 48-4-42, relating to amount payable  
88 for redemption, as follows:

89 "48-4-42.

90 The amount required to be paid for redemption of property from any sale for taxes as  
91 provided in this chapter, or the redemption price, shall with respect to any sale made after  
92 July 1, ~~2002~~ 2014, be the amount paid for the property at the tax sale, as shown by the  
93 recitals in the tax deed, plus any taxes paid on the property by the purchaser after the sale  
94 for taxes, plus any special assessments on the property, plus a premium of 20 percent of the  
95 ~~amount for the first year~~ total amount of the taxes, interest, penalties, and other fees  
96 satisfied by the levy for each year or fraction of a year which has elapsed between the date

97 of the sale and the date on which the redemption payment is made, ~~and 10 percent for each~~  
 98 ~~year or fraction of a year thereafter. If redemption is not made until more than 30 days~~  
 99 ~~after the notice provided for in Code Section 48-4-45 has been given, there~~ Any amounts  
 100 paid in excess of the total amount of the taxes, interest, penalties, and other fees satisfied  
 101 by the levy, including the advancement of additional taxes on the property, shall bear  
 102 interest at the legal rate of interest as defined in Code Section 7-4-2. There shall be added  
 103 to the redemption price the sheriff's cost in connection with serving the notice and the cost  
 104 of publication of the notice, if any. All of the amounts required to be paid by this Code  
 105 section shall be paid in lawful money of the United States to the purchaser at the tax sale  
 106 or to the purchaser's successors."

107 **SECTION 4.**

108 Said title is further amended by designating the existing provisions of Code Section 48-4-43,  
 109 relating to the effect of redemption, as subsection (a) and by adding a new subsection to read  
 110 as follows:

111 "(b) Any creditor of the defendant in fi. fa. or any person having any interest in the  
 112 property who redeems the property under this Code section shall not be entitled to take any  
 113 judicial or nonjudicial action to foreclose the first lien created by this Code section until  
 114 12 months from the date of the sale."

115 **SECTION 5.**

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

119 **SECTION 6.**

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

121 **SECTION 7.**

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