

House Bill 729

By: Representatives Rice of the 95th, Geisinger of the 48th, and Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-5C-1 of the Official Code of Georgia Annotated, relating to
2 definitions, exemption from taxation, allocation and disbursement of proceeds collected by
3 tag agents, fair market value of vehicle appealable, and report, so as to change the manner
4 for determining fair market value of motor vehicles subject to the tax; to provide for the fair
5 market value determination of kit cars; to provide for credit for trade-in vehicle in certain
6 lease transactions; to provide for the promulgation of a uniform bill of sale; to provide for
7 the manner of reduction of taxes in certain seller financed sales of used vehicles; to provide
8 for penalties for fraudulent applications for such reductions; to provide for the distribution
9 of revenue to newly created municipalities; to provide for the calculation of taxes for persons
10 bringing motor vehicles into this state; to provide for audits; to provide for certain refunds;
11 to amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
12 registration and licensing of motor vehicles, so as to provide for multi-year decals for certain
13 vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Code Section 48-5C-1 of the Official Code of Georgia Annotated, relating to definitions,
17 exemption from taxation, allocation and disbursement of proceeds collected by tag agents,
18 fair market value of vehicle appealable, and report, is amended by revising the Code section
19 as follows:

20 "48-5C-1.

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

22 (1) 'Fair market value of the motor vehicle' means:

23 (A) For a used motor vehicle, the average of the current fair market value and the
24 current wholesale value of a motor vehicle for a vehicle listed in the current motor
25 vehicle ad valorem assessment manual utilized by the state revenue commissioner and
26 based upon a nationally recognized motor vehicle industry pricing guide for fair market

27 and wholesale market values in determining the taxable value of a motor vehicle under
 28 Code Section 48-5-442, and, in the case of a used car dealer, less any reduction for the
 29 trade-in value of another motor vehicle which shall also be based upon the average of
 30 the current fair market value and the current wholesale value of the trade-in motor
 31 vehicle listed in the current motor vehicle ad valorem assessment manual utilized by
 32 the state revenue commissioner and based upon a nationally recognized motor vehicle
 33 industry pricing guide for fair market and wholesale market values in determining the
 34 taxable value of a motor vehicle under Code Section 48-5-442;

35 (B) For a used motor vehicle which is not so listed in such current motor vehicle ad
 36 valorem assessment manual, the value from the bill of sale or the value from a reputable
 37 used car market guide designated by the commissioner, whichever is greater, and, in the
 38 case of a used car dealer, less any reduction for the trade-in value of another motor
 39 vehicle; provided, however, that, if the value of the motor vehicle is based upon a
 40 reputable used car market guide designated by the commissioner, then the value of the
 41 trade-in shall also be based upon the same reputable used car market guide;

42 ~~(C) Upon written application and supporting documentation submitted by an applicant~~
 43 ~~under this Code section, a county tag agent may deviate from the fair market value as~~
 44 ~~defined in subparagraph (A) or (B) of this paragraph based upon mileage and condition~~
 45 ~~of the used vehicle. Supporting documentation may include, but not be limited to, bill~~
 46 ~~of sale, odometer statement, and values from reputable pricing guides. The fair market~~
 47 ~~value as determined by the county tag agent pursuant to this subparagraph shall be~~
 48 ~~appealable as provided in subsection (e) of this Code section; or~~

49 ~~(D)~~(C) For a new motor vehicle, the greater of the retail selling price or, in the case of
 50 a lease of a new motor vehicle, the agreed upon value of the vehicle pursuant to the
 51 lease agreement or the average of the current fair market value and the current
 52 wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad
 53 valorem assessment manual utilized by the state revenue commissioner in determining
 54 the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction
 55 for the trade-in value of another motor vehicle and any rebate or any cash discounts
 56 provided by the selling dealer and taken at the time of sale. The retail selling price or
 57 agreed upon value shall include any charges for labor, freight, delivery, dealer fees, and
 58 similar charges and dealer add-ons and mark-ups; but shall not include any extended
 59 warranty or maintenance agreement itemized on the dealer's invoice to the customer or
 60 any finance, insurance, and interest charges for deferred payments billed separately; or

61 (D) In the case of a kit car which is assembled by the purchaser from parts supplied by
 62 a manufacturer, the greater of the retail selling price of the kit or the average of the
 63 current fair market value and the current wholesale value of the motor vehicle if listed

64 in the current motor vehicle ad valorem assessment manual utilized by the state revenue
65 commissioner and based upon a nationally recognized motor vehicle industry pricing
66 guide for fair market and wholesale market values in determining the taxable value of
67 a motor vehicle under Code Section 48-5-442. A kit car shall not include a rebuilt or
68 salvage vehicle.

69 Upon written application and supporting documentation submitted by an applicant under
70 this Code section, a county tag agent may deviate from the fair market value as defined
71 in subparagraph (A) or (B) of this paragraph based upon mileage and condition of the
72 used vehicle. Supporting documentation may include, but shall not be limited to, bill of
73 sale, odometer statement, and values from reputable pricing guides. The fair market
74 value as determined by the county tag agent pursuant to this paragraph shall be
75 appealable as provided in subsection (e) of this Code section. When a lessor uses a motor
76 vehicle which was returned to the lessor by a lessee to purchase another motor vehicle
77 to be leased to the same or a different lessee, such lessor shall receive credit for such
78 trade-in vehicle in determining the fair market value of the vehicle being purchased.

79 (2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or
80 grandchild.

81 (3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn
82 temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no
83 charge for a period not to exceed 30 days within a 366 day period to any one customer
84 whose motor vehicle is being serviced by such dealer.

85 (4) 'Rental charge' means the total value received by a rental motor vehicle concern for
86 the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including
87 the total cash and nonmonetary consideration for the rental or lease, including, but not
88 limited to, charges based on time or mileage and charges for insurance coverage or
89 collision damage waiver but excluding all charges for motor fuel taxes or sales and use
90 taxes.

91 (5) 'Rental motor vehicle' means a motor vehicle designed to carry 15 or fewer
92 passengers and used primarily for the transportation of persons that is rented or leased
93 without a driver.

94 (6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases
95 five or more rental motor vehicles and which regularly rents or leases such vehicles to the
96 public for value.

97 (7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for
98 a vehicle which has been traded in to the dealer in a transaction involving the purchase
99 of another vehicle from the dealer.

100 (b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which
101 a title is issued in this state on or after March 1, 2013, shall be exempt from sales and
102 use taxes to the extent provided under paragraph (95) of Code Section 48-8-3 and shall
103 not be subject to the ad valorem tax as otherwise required under Chapter 5 of this title.
104 Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be
105 subject to a state title fee and a local title fee which shall be alternative ad valorem taxes
106 as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
107 Motor vehicles registered under the International Registration Plan shall not be subject
108 to state and local title ad valorem tax fees but shall continue to be subject to
109 apportioned ad valorem taxation under Article 10 of Chapter 5 of this title.

110 (B)(i) As used in this subparagraph, the term:

111 (I) 'Local base amount' means \$1 billion.

112 (II) 'Local current collection amount' means the total amount of sales and use taxes
113 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle local
114 ad valorem tax proceeds under this Code section and Chapter 5 of this title which
115 were collected during the calendar year which immediately precedes the tax year in
116 which the title ad valorem tax adjustments are required to be made under this
117 subparagraph.

118 (III) 'Local target collection amount' means an amount equal to the local base
119 amount added to the product of 2 percent of the local base amount multiplied by the
120 number of years since 2012 with a maximum amount of \$1.2 billion.

121 (IV) 'State base amount' means \$535 million.

122 (V) 'State current collection amount' means the total amount of sales and use taxes
123 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle state ad
124 valorem tax proceeds under this Code section and Chapter 5 of this title which were
125 collected during the calendar year which immediately precedes the tax year in
126 which the state and local title ad valorem tax rate is to be reviewed for adjustment
127 under division (xiv) of this subparagraph. Notwithstanding the other provisions of
128 this subdivision to the contrary, the term 'state current collection amount' for
129 the 2014 calendar year for the purposes of the 2015 review under division (xiv) of
130 this subparagraph shall be adjusted so that such amount is equal to the amount of
131 motor vehicle state ad valorem tax proceeds that would have been collected under
132 this Code section in 2014 if the combined state and local title ad valorem tax rate
133 was 7 percent of the fair market value of the motor vehicle less any trade-in value
134 plus the total amount of motor vehicle state ad valorem tax proceeds collected under
135 Chapter 5 of this title during 2014.

136 (VI) 'State target collection amount' means an amount equal to the state base
137 amount added to the product of 2 percent of the state base amount multiplied by the
138 number of years since 2012.

139 (ii) The combined state and local title ad valorem tax shall be at a rate equal to:

140 (I) For the period commencing March 1, 2013, through December 31, 2013, 6.5
141 percent of the fair market value of the motor vehicle;

142 (II) For the 2014 tax year, 6.75 percent of the fair market value of the motor
143 vehicle; and

144 (III) Except as provided in division (xiv) of this subparagraph, for the 2015 and
145 subsequent tax years, 7 percent of the fair market value of the motor vehicle.

146 (iii) For the period commencing March 1, 2013, through December 31, 2013, the
147 state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified
148 in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
149 equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

150 (iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55
151 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
152 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
153 division (ii) of this subparagraph.

154 (v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55
155 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
156 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
157 division (ii) of this subparagraph.

158 (vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this
159 subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of
160 the tax rate specified in division (ii) of this subparagraph, and the local title ad
161 valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division
162 (ii) of this subparagraph.

163 (vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv)
164 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent
165 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
166 valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division
167 (ii) of this subparagraph.

168 (viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this
169 subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the
170 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
171 tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this
172 subparagraph.

173 (ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv)
174 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent
175 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
176 valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division
177 (ii) of this subparagraph.

178 (x) For the 2020 tax year, except as otherwise provided in division (xiii) of this
179 subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the
180 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
181 tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this
182 subparagraph.

183 (xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this
184 subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the
185 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
186 tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this
187 subparagraph.

188 (xii) For the 2022 and all subsequent tax years, except as otherwise provided in
189 division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as
190 otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state
191 title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in
192 division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
193 equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

194 (xiii) Beginning in 2016, by not later than January 15 of each tax year through
195 the 2022 tax year, the state revenue commissioner shall determine the local target
196 collection amount and the local current collection amount for the preceding calendar
197 year. If such local current collection amount is equal to or within 1 percent of the
198 local target collection amount, then the state title ad valorem tax rate and the local title
199 ad valorem tax rate for such tax year shall remain at the rate specified in this
200 subparagraph for that year. If the local current collection amount is more than 1
201 percent greater than the local target collection amount, then the local title ad valorem
202 tax rate for such tax year shall be reduced automatically by operation of this division
203 by such percentage amount as may be necessary so that, if such rate had been in effect
204 for the calendar year under review, the local current collection amount would have
205 produced an amount equal to the local target collection amount, and the state title ad
206 valorem tax rate for such tax year shall be increased by an equal amount to maintain
207 the combined state and local title ad valorem tax rate at the rate specified in division
208 (ii) of this subparagraph. If the local current collection amount is more than 1 percent
209 less than the local target collection amount, then the local title ad valorem tax rate for

210 such tax year shall be increased automatically by operation of this division by such
211 percentage amount as may be necessary so that, if such rate had been in effect for the
212 calendar year under review, the local current collection amount would have produced
213 an amount equal to the local target collection amount, and the state title ad valorem
214 tax rate for such tax year shall be reduced by an equal amount to maintain the
215 combined state and local title ad valorem tax rate at the rate specified in division (ii)
216 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by
217 not later than January 31 of such tax year, the state revenue commissioner shall notify
218 the tax commissioner of each county in this state of the adjusted rate amounts. The
219 effective date of such adjusted rate amounts shall be January 1 of such tax year.

220 (xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax
221 year, the state revenue commissioner shall determine the state target collection
222 amount and the state current collection amount for the preceding calendar year. If
223 such state current collection amount is greater than, equal to, or within 1 percent of
224 the state target collection amount after making the adjustment, if any, required in
225 division (xiii) of this subparagraph, then the combined state and local title ad valorem
226 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified
227 in such division. If the state current collection amount is more than 1 percent less
228 than the state target collection amount after making the adjustment, if any, required
229 by division (xiii) of this subparagraph, then the combined state and local title ad
230 valorem tax rate provided in division (ii) of this subparagraph shall be increased
231 automatically by operation of this division by such percentage amount as may be
232 necessary so that, if such rate had been in effect for the calendar year under review,
233 the state current collection amount would have produced an amount equal to the state
234 target collection amount, and the state title ad valorem tax rate and the local title ad
235 valorem tax rate for the tax year in which such increase in the combined state and
236 local title ad valorem tax rate shall become effective shall be adjusted from the rates
237 specified in this subparagraph ~~or division (xiii) of this subparagraph~~ for such tax year
238 such that the proceeds from such increase in the combined state and local title ad
239 valorem tax rate shall be allocated in full to the state. In the event of an adjustment
240 of the combined state and local title ad valorem tax rate, by not later than August 31
241 of such tax year, the state revenue commissioner shall notify the tax commissioner of
242 each county in this state of the adjusted combined state and local title ad valorem tax
243 rate for the next calendar year. The effective date of such adjusted combined state
244 and local title ad valorem tax rate shall be January 1 of the next calendar year.
245 Notwithstanding the provisions of this division, the combined state and local title ad
246 valorem tax rate shall not exceed 9 percent.

247 (xv) The state revenue commissioner shall promulgate such rules and regulations as
248 may be necessary and appropriate to implement and administer this Code section,
249 including, but not limited to, rules and regulations regarding appropriate public
250 notification of any changes in rate amounts and the effective date of such changes and
251 rules and regulations regarding appropriate enforcement and compliance procedures
252 and methods for the implementation and operation of this Code section. The state
253 revenue commissioner shall promulgate a uniform bill of sale to be used by all dealers
254 of new and used vehicles in this state in order to ease the administration of this Code
255 section. The state revenue commissioner may promulgate and implement rules and
256 regulations as may be necessary to permit seller financed sales of used vehicles to be
257 assessed 2.5 percentage points less than the rate specified in division ~~(b)(1)(B)(ii)~~ of
258 ~~this Code section~~ subparagraph. Such rules and regulations, if promulgated, shall
259 provide that any such reduction in the amount of tax paid in seller financed sales of
260 used vehicles shall be in the form of a refundable income tax credit which shall be
261 limited to individuals with a federal adjusted gross income of \$25,000.00 or less for
262 single or head of household filers and \$37,500.00 for joint filers. Any person who
263 fraudulently claims such refundable tax credit shall be guilty of a felony and, upon
264 conviction thereof, shall be subject to imprisonment for a term of not less than one nor
265 more than five years, a fine of not more than \$5,000.00, or both. Any person who
266 aids or assists an individual in fraudulently claiming such refundable tax credit shall
267 be guilty of a felony and, upon conviction thereof, shall be subject to imprisonment
268 for a term of not less than one nor more than five years, a fine of not more than
269 \$5,000.00, or both.

270 (C) The application for title and the state and local title ad valorem tax fees provided
271 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county
272 where the motor vehicle is to be registered and shall be paid at the time the application
273 for a certificate of title is submitted or, in the case of an electronic title transaction, at
274 the time when the electronic title transaction is finalized. In an electronic title
275 transaction, the state and local title ad valorem tax fees shall be remitted electronically
276 directly to the county tag agent. A dealer of new or used motor vehicles may accept
277 such application for title and state and local title ad valorem tax fees on behalf of the
278 purchaser of a new or used motor vehicle for the purpose of submitting or, in the case
279 of an electronic title application, finalizing such title application and remitting state and
280 local title ad valorem tax fees.

281 (D) There shall be a penalty imposed on any person who, in the determination of the
282 commissioner, falsifies any information in any bill of sale used for purposes of
283 determining the fair market value of the motor vehicle. Such penalty shall not

284 exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty
285 as determined by the commissioner. Such determination shall be made within 60 days
286 of the commissioner receiving information of a possible violation of this paragraph.

287 (E) Except in the case in which an extension of the registration period has been granted
288 by the county tag agent under Code Section 40-2-20, a dealer of new or used motor
289 vehicles that accepts an application for title and state and local title ad valorem tax fees
290 from a purchaser of a new or used motor vehicle and does not submit or, in the case of
291 an electronic title transaction, finalize such application for title and remit such state and
292 local title ad valorem tax fees to the county tag agent within 30 days following the date
293 of purchase shall be liable to the county tag agent for an amount equal to 5 percent of
294 the amount of such state and local title ad valorem tax fees. An additional penalty equal
295 to 10 percent of the amount of such state and local title ad valorem tax fees shall be
296 imposed if such payment is not transmitted within 60 days following the date of
297 purchase. An additional penalty equal to 15 percent of the amount of such state and
298 local title ad valorem tax fees shall be imposed if such payment is not transmitted
299 within 90 days following the date of purchase, and an additional penalty equal to 20
300 percent of the amount of such state and local title ad valorem tax fees shall be imposed
301 if such payment is not transmitted within 120 days following the date of purchase. An
302 additional penalty equal to 25 percent of the amount of such state and local title ad
303 valorem tax fees shall be imposed for each subsequent 30 day period in which the
304 payment is not transmitted.

305 (F) A dealer of new or used motor vehicles that accepts an application for title and state
306 and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and
307 converts such fees to his or her own use shall be guilty of theft by conversion and, upon
308 conviction, shall be punished as provided in Code Section 16-8-12.

309 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code
310 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this
311 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1
312 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee
313 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
314 III(b)(3) of the Georgia Constitution.

315 (c)(1) The amount of proceeds collected by tag agents each month as state and local title
316 ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties,
317 and interest pursuant to subsection (b) of this Code section shall be allocated and
318 disbursed as provided in this subsection.

319 (2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall
320 be disbursed within 20 days following the end of each calendar month as follows:

321 (A) State title ad valorem tax fees, state salvage title ad valorem tax fees,
322 administrative fees, penalties, and interest shall be remitted to the state revenue
323 commissioner who shall deposit such proceeds in the general fund of the state less an
324 amount to be retained by the tag agent not to exceed 1 percent of the total amount
325 otherwise required to be remitted under this subparagraph to defray the cost of
326 administration. Such retained amount shall be remitted to the collecting county's
327 general fund. Failure by the tag agent to disburse within such 20 day period shall result
328 in a forfeiture of such administrative fee plus interest on such amount at the rate
329 specified in Code Section 48-2-40; and

330 (B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be
331 designated as local government ad valorem tax funds. The tag agent shall then
332 distribute the proceeds as specified in paragraph (3) of this subsection.

333 (3) The local title ad valorem tax fee proceeds required under this subsection shall be
334 distributed as follows:

335 (A) The tag agent of the county shall within 20 days following the end of each calendar
336 month allocate and distribute to the county governing authority and to municipal
337 governing authorities, the board of education of the county school district, and the
338 board of education of any independent school district located in such county an amount
339 of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles
340 collected under Chapter 5 of this title in the taxing jurisdiction of each governing
341 authority and school district from the amount of ad valorem taxes on motor vehicles
342 collected under Chapter 5 of this title in each such governing authority and school
343 district during the same calendar month of 2012. This reduction shall be calculated by
344 subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5
345 of this title in each such taxing jurisdiction from the amount of ad valorem tax on motor
346 vehicles collected under Chapter 5 of this title in that taxing jurisdiction in the same
347 calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are
348 insufficient to fully offset such reduction in ad valorem taxes on motor vehicles, the tag
349 agent shall allocate a proportionate amount of the proceeds to each governing authority
350 and to the board of education of each such school district, and any remaining shortfall
351 shall be paid from the following month's local title ad valorem tax fee proceeds. In the
352 event that a shortfall remains, the tag agent shall continue to first allocate local title ad
353 valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully
354 repaid; and

355 (B) Of the proceeds remaining following the allocation and distribution under
356 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the
357 county governing authority and to municipal governing authorities, the board of

358 education of the county school district, and the board of education of any independent
359 school district located in such county the remaining amount of those proceeds in the
360 manner provided in this subparagraph. Such proceeds shall be deposited in the general
361 fund of such governing authority or board of education and shall not be subject to any
362 use or expenditure requirements provided for under any of the following described local
363 sales and use taxes but shall be authorized to be expended in the same manner as
364 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of this
365 title which would otherwise have been collected for such governing authority or board
366 of education. Of such remaining proceeds:

367 (i) An amount equal to one-third of such proceeds shall be distributed to the board
368 of education of the county school district and the board of education of each
369 independent school district located in such county in the same manner as required for
370 any local sales and use tax for educational purposes levied pursuant to Part 2 of
371 Article 3 of Chapter 8 of this title currently in effect. If such tax is not currently in
372 effect, such proceeds shall be distributed to such board or boards of education in the
373 same manner as if such tax were in effect;

374 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
375 of such proceeds shall be distributed to the governing authority of the county and
376 the governing authority of each qualified municipality located in such county in the
377 same manner as specified under the distribution certificate for the joint county and
378 municipal sales and use tax under Article 2 of Chapter 8 of this title currently in
379 effect.

380 (II) If such tax were never in effect, such proceeds shall be distributed to the
381 governing authority of the county and the governing authority of each qualified
382 municipality located in such county on a pro rata basis according to the ratio of the
383 population that each such municipality bears to the population of the entire county.

384 (III) If such tax is currently in effect as well as a local option sales and use tax for
385 educational purposes levied pursuant to a local constitutional amendment, an
386 amount equal to one-third of such proceeds shall be distributed in the same manner
387 as required under subdivision (I) of this division and an amount equal to one-third
388 of such proceeds shall be distributed to the board of education of the county school
389 district.

390 (IV) If such tax is not currently in effect and a local option sales and use tax for
391 educational purposes levied pursuant to a local constitutional amendment is
392 currently in effect, such proceeds shall be distributed to the board of education of
393 the county school district and the board of education of any independent school

394 district in the same manner as required under ~~that~~ such local constitutional
395 amendment.

396 (V) If such tax is not currently in effect and a homestead option sales and use tax
397 under Article 2A of Chapter 8 of this title is in effect, such proceeds shall be
398 distributed to the governing authority of the county, each qualified municipality, and
399 each existing municipality in the same proportion as otherwise required under Code
400 Section 48-8-104; ~~and~~

401 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the
402 governing authority of the county and the governing authority of each qualified
403 municipality located in such county in the same manner as specified under an
404 intergovernmental agreement or as otherwise required under the county special
405 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of this
406 title currently in effect; provided, however, that this subdivision shall not apply if
407 subdivision (III) of division (ii) of this subparagraph is applicable.

408 (II) If such tax were in effect but expired and is not currently in effect, such
409 proceeds shall be distributed to the governing authority of the county and the
410 governing authority of each qualified municipality located in such county in the
411 same manner as if such tax were still in effect according to the intergovernmental
412 agreement or as otherwise required under the county special purpose local sales and
413 use tax under Part 1 of Article 3 of Chapter 8 of this title for the 12 month period
414 commencing at the expiration of such tax. If such tax is not renewed prior to the
415 expiration of such 12 month period, such amount shall be distributed in accordance
416 with subdivision (I) of division (ii) of this subparagraph; provided, however, that if
417 a tax under Article 2 of Chapter 8 of this title is not in effect, such amount shall be
418 distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

419 (III) If such tax is not currently in effect in a county in which a tax is levied for
420 purposes of a metropolitan area system of public transportation, as authorized by the
421 amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of
422 such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution;
423 and the laws enacted pursuant to such constitutional amendment, such proceeds
424 shall be distributed to the governing body of the authority created by local Act to
425 operate such metropolitan area system of public transportation.

426 (IV) If such tax were never in effect, such proceeds shall be distributed in the same
427 manner as specified under the distribution certificate for the joint county and
428 municipal sales and use tax under Article 2 of Chapter 8 of this title currently in
429 effect; provided, however, that if such tax under such article is not in effect, such
430 proceeds shall be distributed to the governing authority of the county and the

431 governing authority of each qualified municipality located in such county on a pro
 432 rata basis according to the ratio of the population that each such municipality bears
 433 to the population of the entire county; and

434 (iv) Notwithstanding any other provision of this Code section to the contrary, a
 435 municipality which comes into existence shall receive a percentage of the amount of
 436 revenue to be paid under this Code section to the county in which the new
 437 municipality is located. The percentage shall be determined by dividing the
 438 population of the new municipality as determined by the most recent federal decennial
 439 census by the population of the county as determined by the same such census.

440 (d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject
 441 to paragraph (1) of subsection (b) of this Code section, the immediate family member
 442 or immediate family members of such owner who receive such motor vehicle pursuant
 443 to a will or under the rules of inheritance shall, subsequent to the transfer of title of such
 444 motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of this title and
 445 shall not be subject to the state and local title ad valorem tax fees provided for in
 446 paragraph (1) of subsection (b) of this Code section unless the immediate family
 447 member or immediate family members make an affirmative written election to become
 448 subject to paragraph (1) of subsection (b) of this Code section. In the event of such
 449 election, such transfer shall be subject to the state and local title ad valorem tax fees
 450 provided for in paragraph (1) of subsection (b) of this Code section.

451 (B) Upon the death of an owner of a motor vehicle which has become subject to
 452 paragraph (1) of subsection (b) of this Code section, the immediate family member or
 453 immediate family members of such owner who receive such motor vehicle pursuant to
 454 a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee
 455 in an amount equal to one-quarter of 1 percent of the fair market value of the motor
 456 vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1
 457 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
 458 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
 459 III(b)(3) of the Georgia Constitution.

460 (2)(A) Upon the transfer from an immediate family member of a motor vehicle which
 461 has not become subject to paragraph (1) of subsection (b) of this Code section, the
 462 immediate family member or immediate family members who receive such motor
 463 vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be
 464 subject to ad valorem tax under Chapter 5 of this title and shall not be subject to the
 465 state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b)
 466 of this Code section unless the immediate family member or immediate family
 467 members make an affirmative written election to become subject to paragraph (1) of

468 subsection (b) of this Code section. In the event of such election, such transfer shall be
 469 subject to the state and local title ad valorem tax fees provided for in paragraph (1) of
 470 subsection (b) of this Code section.

471 (B) Upon the transfer from an immediate family member of a motor vehicle which has
 472 become subject to paragraph (1) of subsection (b) of this Code section, the immediate
 473 family member who receives such motor vehicle shall transfer title of such motor
 474 vehicle to such recipient family member and shall be subject to a state title ad valorem
 475 tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the
 476 motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1
 477 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
 478 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
 479 III(b)(3) of the Georgia Constitution.

480 (C) Any title transfer under this paragraph shall be accompanied by an affidavit of the
 481 transferor and transferee that such persons are immediate family members to one
 482 another. There shall be a penalty imposed on any person who, in the determination of
 483 the state revenue commissioner, falsifies any material information in such affidavit.
 484 Such penalty shall not exceed \$2,500.00 as a state penalty and shall not
 485 exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner.
 486 Such determination shall be made within 60 days of the state revenue commissioner
 487 receiving information of a possible violation of this paragraph.

488 (3) Any individual who:

489 (A) Is required by law to register a motor vehicle or motor vehicles in this state which
 490 were registered in the state in which such person formerly resided; and

491 (B) Is required to file an application for a certificate of title under Code
 492 Section 40-3-21 or 40-3-32

493 shall only be required to pay state and local title ad valorem tax fees ~~in the amount of 50~~
 494 ~~percent of the amount which would otherwise be due and payable under this subsection~~
 495 ~~at the time of filing the application for a certificate of title, and the remaining 50 percent~~
 496 ~~shall be paid within 12 months~~ an amount equal to 3 percent of the fair market value of
 497 the motor vehicle being registered.

498 (4) The state and local title ad valorem tax fees provided for under this Code section
 499 shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles
 500 reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

501 (5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph
 502 (1) of subsection (b) of this Code section shall continue to be subject to the title, license
 503 plate, revalidation decal, and registration requirements and applicable fees as otherwise
 504 provided in Title 40 in the same manner as motor vehicles which are not subject to state

505 and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
506 section.

507 (6) Motor vehicles owned or leased by or to the state or any county, consolidated
508 government, municipality, county or independent school district, or other government
509 entity in this state shall not be subject to the state and local title ad valorem tax fees
510 provided for under paragraph (1) of subsection (b) of this Code section; provided,
511 however, that such other government entity shall not qualify for the exclusion under this
512 paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to
513 general law.

514 (7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to
515 paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad
516 valorem tax fees under this subsection.

517 (B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code
518 Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and
519 local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
520 section.

521 (8) There shall be a penalty imposed on the transfer of all or any part of the interest in a
522 business entity that includes primarily as an asset of such business entity one or more
523 motor vehicles, when, in the determination of the state revenue commissioner, such
524 transfer is done to evade the payment of state and local title ad valorem tax fees under
525 this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor
526 vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as
527 determined by the state revenue commissioner, plus the amount of the state and local title
528 ad valorem tax fees. Such determination shall be made within 60 days of the state
529 revenue commissioner receiving information that a transfer may be in violation of this
530 paragraph.

531 (9) Any owner of any motor vehicle who fails to submit within 30 days of the date such
532 owner is required by law to register such vehicle in this state an application for a first
533 certificate of title under Code Section 40-3-21 or a certificate of title under Code
534 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state
535 title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required
536 under this Code section, and; if such state and local title ad valorem tax fees and the
537 penalty are not paid within 60 days following the date such owner is required by law to
538 register such vehicle, interest at the rate of 1.0 percent per month shall be imposed on the
539 state and local title ad valorem tax fees due under this Code section, unless a temporary
540 permit has been issued by the tax commissioner. The tax commissioner shall grant a
541 temporary permit in the event the failure to timely apply for a first certificate of title is

542 due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release
 543 of a security interest or lien, and no penalty or interest shall be assessed. Such penalty
 544 and interest shall be in addition to the penalty and fee required under Code
 545 Section 40-3-21 or 40-3-32, as applicable.

546 (10) The owner of any motor vehicle for which a title was issued in this state on or after
 547 January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the
 548 provisions of this subsection at any time prior to February 28, 2014, upon compliance
 549 with the following requirements:

550 (A)(i) The total amount of Georgia state and local title ad valorem tax fees which
 551 would be due from March 1, 2013, to December 31, 2013, if such vehicle had been
 552 titled in 2013 shall be determined; and

553 (ii) The total amount of Georgia state and local sales and use tax and Georgia state
 554 and local ad valorem tax under Chapter 5 of this title which were due and paid
 555 in 2012 for ~~that~~ such motor vehicle and, if applicable, the total amount of such taxes
 556 which were due and paid for ~~that~~ such motor vehicle in 2013 and 2014 shall be
 557 determined; and

558 (B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph
 559 is greater than the amount derived under division (ii) of subparagraph (A) of this
 560 paragraph, the owner shall remit the difference to the tag agent. Such remittance shall
 561 be deemed local title ad valorem tax fee proceeds; or

562 (ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is
 563 less than the amount derived under division (ii) of subparagraph (A) of this paragraph,
 564 no additional amount shall be due and payable by the owner.

565 Upon certification by the tag agent of compliance with the requirements of this
 566 paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise
 567 required under Chapter 5 of this title in the same manner as otherwise provided in
 568 paragraph (1) of subsection (b) of this Code section.

569 (11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern,
 570 the state title ad valorem tax fee shall be in an amount equal to .625 percent of the fair
 571 market value of the motor vehicle, and the local title ad valorem tax fee shall be in an
 572 amount equal to .625 percent of the fair market value of the motor vehicle, but only if
 573 in the immediately prior calendar year the average amount of sales and use tax
 574 attributable to the rental charge of each such rental motor vehicle was at least \$400.00
 575 as certified by the state revenue commissioner. If, in the immediately prior calendar
 576 year, the average amount of sales and use tax attributable to the rental charge of each
 577 such rental motor vehicle was not at least \$400.00, this paragraph shall not apply and

578 such vehicles shall be subject to the state and local title ad valorem tax fees prescribed
579 in division (b)(1)(B)(ii) of this Code section.

580 (B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized
581 by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

582 (12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees
583 under paragraph (1) of subsection (b) of this Code section for a period of time not to
584 exceed 366 days commencing on the date such loaner vehicle is withdrawn temporarily
585 from inventory. Immediately upon the expiration of such 366 day period, if the dealer
586 does not return the loaner vehicle to inventory for resale, the dealer shall be responsible
587 for remitting state and local title ad valorem tax fees in the same manner as otherwise
588 required of an owner under paragraph (9) of this subsection and shall be subject to the
589 same penalties and interest as an owner for noncompliance with the requirements of
590 paragraph (9) of this subsection.

591 (13) Any motor vehicle which is donated to a nonprofit organization exempt from
592 taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being
593 transferred to another person shall, when titled in the name of such nonprofit
594 organization, not be subject to state and local title ad valorem tax fees under paragraph
595 (1) of subsection (b) of this Code section but shall be subject to state and local title ad
596 valorem tax fees otherwise applicable to salvage titles under paragraph (2) of subsection
597 (b) of this Code section.

598 (14)(A) A lessor of motor vehicles that leases motor vehicles for more than 31
599 consecutive days to lessees residing in this state shall register with the department. The
600 department shall collect an annual fee of \$100.00 for such registrations. Failure of a
601 lessor to register under this subparagraph shall subject such lessor to a civil penalty
602 of \$2,500.00.

603 (B) A lessee residing in this state who leases a motor vehicle under this paragraph shall
604 register such motor vehicle with the tag agent in such lessee's county of residence
605 within 30 days of the commencement of the lease of such motor vehicle or beginning
606 residence in this state, whichever is later.

607 (C) A lessor that leases a motor vehicle under this paragraph to a lessee residing in this
608 state shall apply for a certificate of title in this state within 30 days of the
609 commencement of the lease of such motor vehicle.

610 (15) There shall be no liability for any state or local title ad valorem tax fees in any of
611 the following title transactions:

612 (A) The addition or substitution of lienholders on a motor vehicle title so long as the
613 owner of the motor vehicle remains the same;

- 614 (B) The acquisition of a bonded title by a person or entity pursuant to Code
 615 Section 40-3-28 if the title is to be issued in the name of such person or entity;
- 616 (C) The acquisition of a title to a motor vehicle by a person or entity as a result of the
 617 foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be
 618 issued in the name of such lienholder;
- 619 (D) The acquisition of a title to an abandoned motor vehicle by a person or entity
 620 pursuant to Chapter 11 of this title if such person or entity is a manufacturer or dealer
 621 of motor vehicles and the title is to be issued in the name of such person or entity;
- 622 (E) The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to
 623 Code Section 40-3-43;
- 624 (F) The obtaining of a title by and in the name of a motor vehicle manufacturer,
 625 licensed distributor, licensed dealer, or licensed rebuilder for the purpose of sale or
 626 resale or to obtain a corrected title, provided that the manufacturer, distributor, dealer,
 627 or rebuilder shall submit an affidavit in a form promulgated by the commissioner
 628 attesting that the transfer of title is for the purpose of accomplishing a sale or resale or
 629 to correct a title only;
- 630 (G) The obtaining of a title by and in the name of the holder of a security interest when
 631 a motor vehicle has been repossessed after default in accordance with Part 6 of Article
 632 9 of Title 11 if such title is to be issued in the name of such security interest holder;
- 633 (H) The obtaining of a title by a person or entity for purposes of correcting a title,
 634 changing an odometer reading, or removing an odometer discrepancy legend, provided
 635 that, subject to subparagraph (F) of this paragraph, title is not being transferred to
 636 another person or entity; and
- 637 (I) The obtaining of a title by a person who pays state and local title ad valorem tax
 638 fees on a motor vehicle and subsequently moves out of this state but returns and applies
 639 to retitle such vehicle in this state.
- 640 (16) It shall be unlawful for a person to fail to obtain a title for and register a motor
 641 vehicle in accordance with the provisions of this chapter. Any person who knowingly
 642 and willfully fails to obtain a title for or register a motor vehicle in accordance with the
 643 provisions of this chapter shall be guilty of a misdemeanor.
- 644 (17) Any person who purchases a ~~1963 through~~ 1985 or earlier model year motor vehicle
 645 for which such person obtains a title shall be subject to this Code section, but the state
 646 title ad valorem tax fee shall be in an amount equal to .50 percent of the fair market value
 647 of such motor vehicle, and the local title ad valorem tax fee shall be in an amount equal
 648 to .50 percent of the fair market value of such motor vehicle.
- 649 (e) The fair market value of any motor vehicle subject to this Code section shall be
 650 appealable in the same manner as otherwise authorized for a motor vehicle subject to ad

651 valorem taxation under Code Section 48-5-450; provided, however, that the person
 652 appealing the fair market value shall first pay the full amount of the state and local title ad
 653 valorem tax prior to filing any appeal. If the appeal is successful, the amount of the tax
 654 owed shall be recalculated and, if the amount paid by the person appealing the
 655 determination of fair market value is greater than the recalculated tax owed, the person
 656 shall be promptly given a refund of the difference.

657 (f) Beginning in 2014, on or before January 31 of each year, the department shall provide
 658 a report to the chairpersons of the House Committee on Ways and Means and the Senate
 659 Finance Committee showing the state and local title ad valorem tax fee revenues collected
 660 pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant
 661 to Chapter 5 of this title during the preceding calendar year.

662 (g) The state revenue commissioner and any local government shall have the right to audit
 663 all state and local title ad valorem taxes returned.

664 (h) A motor vehicle dealer shall be authorized to apply for a refund of state and local title
 665 ad valorem taxes on behalf of the person who purchased a motor vehicle from such dealer.
 666 Such dealer shall promptly pay to such purchaser any refund received by the dealer which
 667 is owed to the purchaser, and in any event, such payment shall be made no later than ten
 668 days following the receipt of such refund by the dealer."

669

SECTION 2.

670 Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and
 671 licensing of motor vehicles, is amended by revising subparagraph (a)(1)(A) of Code
 672 Section 40-2-20, relating to registration and license requirements, extension of registration
 673 period, and penalties, and by adding a new subsection to read as follows:

674 "(a)(1)(A) Except as provided in subsection (b) or (d) of this Code section and
 675 subsection (a) of Code Section 40-2-47, every owner of a motor vehicle, including a
 676 tractor or motorcycle, and every owner of a trailer shall, during the owner's registration
 677 period in each year, register such vehicle as provided in this chapter and obtain a
 678 license to operate it for the 12 month period until such person's next registration
 679 period."

680 "(d) Upon the payment of the requisite fee, the owner of a passenger car for which the
 681 owner has paid state and local title ad valorem taxes may choose to register such passenger
 682 car for a period of three, four, or five years instead of the annual registration provided for
 683 in this Code section."

684

SECTION 3.

685 Said chapter is further amended by revising Code Section 40-2-151, relating to annual license
686 fees for operation of vehicles and fee for permanent licensing of certain trailers, by adding
687 a new subsection to read as follows:

688 "(c) The fee for a passenger car for which the owner has paid state and local title ad
689 valorem taxes and that is being registered as provided in subsection (d) of Code
690 Section 40-2-20 shall be:

691 (1) For a three-year registration period \$57.00

692 (2) For a four-year registration period 75.00

693 (3) For a five-year registration period 90.00"

694

SECTION 4.

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