

ACT NO. 2012- 494

1 SB216  
2 138395-5  
3 By Senators Irons, Orr, Fielding, Brooks, and Beasley  
4 RFD: Judiciary  
5 First Read: 07-FEB-12



1 SB216

2  
3  
4 ENROLLED, An Act,

5 To amend Section 40-22-1, Code of Alabama 1975, to  
6 require that a person presenting a deed, bill of sale, or  
7 other instrument conveying any real or personal property  
8 within this state or any interest in any such property to the  
9 judge of probate for recording shall present proof of the  
10 actual purchase price of property or actual value of the  
11 property, and that if such proof is not presented, the  
12 privilege or license tax will be based upon the assessed value  
13 of the property and the person failing to submit the required  
14 proof shall be subject to monetary penalties for failure to  
15 comply with the law.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 40-22-1, Code of Alabama 1975, is  
18 amended to read as follows:

19 "§40-22-1.

20 "(a) Except as set out in subsection (b), no deed,  
21 bill of sale, or other instrument of like character which  
22 conveys any real or personal property within this state or  
23 which conveys any interest in any such property shall be  
24 received for record unless the privilege or license tax is

1 paid prior to the instrument being offered for record as  
2 provided in subsection (c).

3 "(b) No privilege or license tax shall be required  
4 for any of the following:

5 "(1) The transfer of mortgages on real or personal  
6 property within this state upon which the mortgage tax has  
7 been paid.

8 "(2) Deeds or instruments executed for a nominal  
9 consideration for the purpose of perfecting the title to real  
10 estate.

11 "(3) The re-recording of corrected mortgages,  
12 deeds, or instruments executed for the purpose of perfecting  
13 the title to real or personal property, specifically, but not  
14 limited to, corrections of maturity dates thereof, and deeds  
15 and other instruments or conveyances, executed prior to  
16 October 1, 1923.

17 "(c) Except as provided in subsection (b), the  
18 privilege or license tax on all instruments which are executed  
19 to convey real or personal property situated in this state of  
20 the value of \$500 or less shall be \$.50, and upon all such  
21 instruments executed to convey real or personal property  
22 situated in this state of more than \$500 in value there shall  
23 be paid the sum of \$.50 for each \$500 or fraction thereof in  
24 value of property conveyed by such instrument; provided, that  
25 only the value in excess of any mortgages or vendor's lien

1 upon any property within this state on which the mortgage tax  
2 has been paid shall be taxable under this section; and  
3 provided further, that where several deeds or instruments are  
4 executed by tenants in common for the same consideration, only  
5 one of such instruments shall be taxable under this section.  
6 Except for instruments which convey only leaseholds easements,  
7 or licenses or the recordation of copies of instruments  
8 evidencing original transfers of title to land by the United  
9 States or the State of Alabama, any instrument presented for  
10 record pursuant to this section shall be accompanied by proof  
11 of the actual purchase price paid for the property or if the  
12 property has not been sold, proof of the actual value of the  
13 real or personal property which is the subject of the  
14 instrument being recorded. The Department of Revenue shall  
15 develop a form which shall be used for attesting to the actual  
16 value or actual purchase price of the property, which form  
17 shall include only information related to the actual value or  
18 actual purchase price of the property. Any person utilizing  
19 the form developed by the department pursuant to this section  
20 shall attest to the accuracy of the information being provided  
21 on the form, but shall not be required to provide any further  
22 documentation or proof of the actual purchase price or actual  
23 value of the property.

24 "(d) Upon the presentation of any instrument for  
25 record, the judge of probate shall calculate the amount of tax

1 due based upon the actual purchase price paid or the actual  
2 value of the property as required in subsection (c). If no  
3 proof is provided at the time the instrument is presented for  
4 recording, the amount of the tax due shall be based upon the  
5 value of the property as determined by the most recent  
6 assessment of property conducted pursuant to Title 40, Chapter  
7 7, and the judge of probate shall assess penalties as set out  
8 in subsection (h) to be paid in addition to the tax due.

9 "(e) The instrument shall be recorded upon the  
10 payment of the amount of such tax and recording fee, and where  
11 assessed, any penalties as set out in subsection (h);  
12 provided, however, that upon the presentation for record of  
13 any instrument which conveys property situated in two or more  
14 counties of this state, the judge of probate shall so certify  
15 receipt of the instrument together with a description of the  
16 property conveyed by the instrument to the Department of  
17 Revenue, which after hearing evidence as may be offered or as  
18 it may secure, shall fix and determine the value of the  
19 property as located in each county and shall certify its  
20 determination thereof to the judge of probate, showing the  
21 value of the property in each county separately; and, upon the  
22 payment to the judge of probate of the tax due on the value of  
23 all property in this state conveyed by the instrument as so  
24 determined, the judge of probate shall accept the instrument  
25 for record. The person presenting any instrument conveying

1 property in two or more counties of this state may secure  
2 immediate filing of the instrument for record by depositing  
3 with the judge of probate an amount which in the judgment of  
4 the judge of probate will cover the tax herein provided for,  
5 and after the value of the property conveyed thereby is  
6 determined by the Department of Revenue, as provided herein,  
7 any excess of the deposit over the amount of tax found to be  
8 due on the instrument shall be refunded to the person offering  
9 the instrument for record. The determination by the judge of  
10 probate and of the Department of Revenue of the amount of tax  
11 due on any instrument is hereby declared to be a ministerial  
12 act and shall not preclude the subsequent collection of the  
13 correct amount of tax if the value of the property thereby  
14 conveyed is not fully disclosed to the judge of probate or the  
15 Department of Revenue when the instrument is offered for  
16 record. Upon the filing for record of any instrument coming  
17 within the terms of this section, the judge of probate shall  
18 certify thereon the fact that the tax has been paid, showing  
19 the amount of the tax, and thereafter the instrument shall be  
20 received for record in any county of this state without the  
21 payment of any further tax, except the fee of the judge of  
22 probate for recording such instrument, which certificate shall  
23 be recorded with and as part of the instrument.

24 "(f) Upon the filing for record of any instrument  
25 which has been exempted by law from the payment of the tax

1 provided for in this section, the judge of probate shall  
2 certify thereon that no tax has been paid and shall stamp in  
3 bold letters on the face of said instruments the words "No Tax  
4 Collected," and said certificate shall be recorded with and as  
5 a part of the instrument, and thereafter such instrument shall  
6 be received for record in any county in this state without the  
7 payment of any further tax, when submitted by the same tax  
8 exempt institution or another tax exempt institution, but if  
9 submitted by or transferred to an institution or person not  
10 exempt from the payment of the tax levied under this section,  
11 the judge of probate shall collect the tax levied by this  
12 section, together with the fee of the judge of probate for  
13 recording such instrument, before it will be admitted to  
14 record.

15 "(g) Of the tax collected by the judge of probate  
16 under the provisions of this section, there shall be paid into  
17 the State Treasury two thirds of the amount so collected, and  
18 the remaining one third shall be paid into the county  
19 treasury; provided, that the counties' share of the tax  
20 collected on any instrument conveying property in more than  
21 one county shall be paid into the county treasuries of the  
22 counties in which such property is situated in proportion to  
23 the value of such property as determined by the Department of  
24 Revenue as herein provided. If the judge of probate is paid on  
25 fees and commissions, he or she shall receive two and one-half

1 percent of the amount collected under the provisions of this  
2 section as his or her commission for collecting the money,  
3 which shall be deducted from the total amount collected and  
4 retained by him or her when making settlement of his or her  
5 collections as required by law; provided, that this section  
6 shall not be so construed or enforced as to require the  
7 payment of privilege tax herein provided on mortgages, deeds  
8 of trust, or other instruments in the nature of a mortgage or  
9 deeds or other instruments with a vendor's lien except as to  
10 that part of the purchase price which is paid in cash or other  
11 articles of value and which pay no other privilege tax for  
12 recording. In counties where the probate judges are paid  
13 salaries, the fee or commission collected or retained for  
14 collecting the tax herein provided for shall be paid into the  
15 treasuries of their respective counties.

16 "(h) Any person who submits an instrument for  
17 recording pursuant to this section and intentionally fails to  
18 submit proof of the value of the property or the actual  
19 purchase price paid for the property as required in subsection  
20 (c) following a specific request for such proof from the  
21 probate office or who presents false proof of same, in  
22 addition to payment of the tax due as calculated on the actual  
23 value of the property, shall pay a penalty of one hundred  
24 dollars (\$100) or 25 percent of the privilege or license tax  
25 actually due, whichever is greater. No person submitting the



1 form required under subsection (c) above shall be deemed to  
2 have presented false proof or be otherwise subject to  
3 liability where such form was submitted and attested to in  
4 good faith.

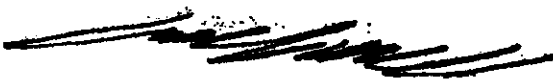
5 "(i) No failure or falsity of proof of the actual  
6 purchase price or value shall in any way affect the instrument  
7 recordation or the notice provided by such recorded."

8 Section 2. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

*Kay Ivey*

President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB216

Senate 12-APR-12

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris  
Secretary

House of Representatives  
Passed: 16-MAY-12

By: Senator Irons

APPROVED *May 22, 2012*

TIME *7:35 am*  
*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2012-494  
Bill Num....: S-216

Recv'd 05/22/12 03:50pmSLF

NSOR

**Frons**  
SPONSORS

Drr

Fielding

Brooks

Beasley

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

**SENATE ACTION**

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill.  
SB 216

years 28 nays 1 abstain

**PATRICK HARRIS,**  
Secretary

I hereby certify that the notice & proof is attached to the Bill SB as required in the General Acts of Alabama, 1975 Act No 919

**PATRICK HARRIS,**  
Secretary

**CONFERENCE COMMITTEE**

Senate Conferees

**HOUSE ACTION**

DATE:

4-12

2012

RD 1 RFD

Study

**REPORT OF STANDING COMMITTEE**

This bill having been referred by the House to its standing committee on

House Judiciary was acted upon by such committee in session and returned therefrom to the House with the recommendation that it be

Passed with amendments w/sub

This 26 day of April, 2012

Paul DeW Chairperson

DATE:

4-26

2012

RF

LLAWSONG

RD 2 CAL

DATE

20

RE REFERRED

RE-COMMITTED

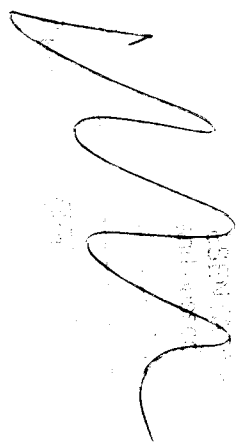
Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill.  
SB 216

YEAS 87 NAYS 0

**GREG PAPPAS,**  
Clerk

FURTHER HOUSE ACTION (OVER)



HOUSE OF REPRESENTATIVES  
Roll Call No. 100  
Year 1912  
Date 10-12