

Georgia Amends Intangible Recording Tax Statute and Expands Loans Exempt from Tax

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On May 9, Governor Brian Kemp signed House Bill 586, revising the definition of “long-term note[s] secured by real estate” that are subject to the intangible recording tax. Under current law, long-term notes are considered any note in which part of the principal is due more than three years from the date of the note. Long-term notes are subject to the intangible recording tax, which is \$1.50 for each \$500, or fraction thereof, of the face value of the note. The tax remains capped at \$25,000.

The enacted House Bill can be found [here](#). The changes, which are effective July 1, 2025, will:

- Amend the definition of “long-term note[s] secured by real estate” to any note where part of the principal is due **more than 62 months** (five years and two months) from the date of the note; and
- Remove the definition of “short-term note[s] secured by real estate.”

As a result, more real estate loans will be considered short-term and exempt from the intangible recording tax. Take, for instance, a common structure of a construction loan, which is often three years with one or two 1-year extension options. If it was in the borrower’s discretion to extend (*i.e.*, the borrower could elect to extend upon the satisfaction of certain conditions, even if there was some subjectivity in the lender’s determination of satisfaction of such conditions), those loans were considered long-term. Given the amendments, those notes would now be considered short-term even with the extension options.

In addition, the rules and regulations adopted by the Georgia Department of Revenue must be amended to reflect the changes to the statute. For instance, the rules and regulations utilize the term “short-term note” throughout, most notably in the definitions, refinancing, and combination instrument regulations. Either the definitions of “short-term note[s] secured by real estate” and related phrases will need to be updated to reflect any note whose whole principal is **due within 62 months** from the date of the note, or the definitions will need to be repealed and a practical inference made. Additionally, any language referencing a “three-year period” will need to be amended to reflect the new 62-month time frame.

Key Takeaway – *Fewer loans will be subject to intangible recording tax in Georgia.*

For questions related to Georgia’s Intangible Recording Tax, contact Shelli Willis or Robert Kennedy.

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