

House Bill 301

By: Representative Crawford of the 91st

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 13 of Title 9 of the Official Code of Georgia Annotated, relating to executions and judicial sales, so as to provide for limitation of damages in civil actions by successful bidders for property sold in certain judicial and certain nonjudicial sales that are later rescinded; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 13 of Title 9 of the Official Code of Georgia Annotated, relating to executions and judicial sales, is amended by inserting a new Code section to be designated Code Section 9-13-172.1 to read as follows:

"9-13-172.1.

(a) As used in this Code section, 'eligible sale' means a sale that was subsequently rescinded by the seller within 90 days after such sale, and that is a judicial sale or a nonjudicial sale that was conducted in the usual manner of sheriff's sales.

(b) In a civil action brought by a plaintiff who was a successful bidder at an eligible sale rescinded by the seller due to the automatic stay following a bankruptcy filing by a person with an interest in the property, the only damages that may be awarded are bid funds tendered at the sale by the successful bidder.

(c) Damages that may be awarded in a civil action by a plaintiff who was the successful bidder at an eligible sale rescinded by the seller shall be limited as provided in subsections (d) and (e) of this Code section when the sale was rescinded following a determination of one or more of the following circumstances:

(1) The statutory requirements for the sale were not fulfilled;

(2) The default leading to the sale was cured prior to the sale; or

(3) Prior to the sale, the plaintiff in execution and the defendant in execution agreed to cancel the sale based upon a promise by the defendant in execution to cure the default.

(d) Damages that may be awarded to a plaintiff in a civil action that fulfills the requirements of subsection (c) of this Code section are:

(1) Bid funds tendered at the sale, plus interest on such funds at the rate of 10 percent annually, applied daily;

(2) Funds paid for insurance on the property or court costs for obtaining possession of the property, provided that such funds were paid after the sale and before the successful bidder was first notified that the sale was rescinded; and

(3) Funds paid for maintenance or repair of the property, provided that such funds were paid after delivery of the property deed to the successful bidder and before the successful bidder was first notified that the sale was rescinded.

(e) Damages that may not be awarded to a plaintiff in a civil action that fulfills the requirements of subsection (c) of this Code section are:

(1) Specific performance; and

(2) Lost profit."

SECTION 2.

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