

House Bill 769

By: Representative Dean of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated,
2 relating to redemption of property sold for taxes, so as to change the procedures for giving
3 notice of foreclosure of the right of redemption; to provide for related matters; to provide for
4 an effective date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to
8 redemption of property sold for taxes, is amended by striking Code Sections 48-4-45 and
9 48-4-46, relating to notice of foreclosure of the right of redemption, and inserting in their
10 place new Code sections to read as follows:

11 "48-4-45.

12 (a) After 12 months from the date of a tax sale, the purchaser at the sale or his ~~heirs,~~
13 ~~successors, or assigns~~ or her successor in interest may terminate, foreclose, divest, and
14 forever bar the right to redeem the property from the sale by complying with this Code
15 section and causing a notice or notices of the foreclosure, ~~as provided for in this article: to~~
16 be given as provided in this Code section and Code Section 48-4-46. The purchaser or his
17 or her successor in interest shall conduct a 40 year title search on the subject property to
18 determine the identity of persons entitled to notice. The purchaser or his or her successor
19 in interest shall then cause a notice or notices of the foreclosure:

20 (1) To be served upon all of the following persons who reside in the county in which the
21 property is located:

22 (A) The defendant in the execution under or by virtue of which the sale was held;

23 (B) The occupant, if any, of the property; and

24 (C) All persons having of record in the county in which the land is located any right,
25 title, or interest in, or lien upon the property;

1 (2) To be sent twice in two different weeks by registered or certified mail or statutory
 2 overnight delivery and regular mail to each of the persons specified in subparagraphs (A),
 3 (B), and (C) of paragraph (1) of this subsection who resides outside the county in which
 4 the property is located, ~~if the address of that person is reasonably ascertainable~~; and

5 (3) To be published, if that tax sale occurs on or after July 1, 1989, in the newspaper in
 6 which the sheriff's advertisements for the county are published in each county in which
 7 that property is located, which publication shall occur once a week for four consecutive
 8 weeks in the six-month period immediately prior to the week of the redemption deadline
 9 date specified in the notice.

10 (b) Nothing contained in this Code section shall be construed to require that any notice be
 11 sent to or served upon any person whose right, title, interest in, or lien upon the property
 12 does not appear of record in the county in which the land is located.

13 (c) The heirs of any deceased owner of any land entitled to notice pursuant to this Code
 14 section shall be served by the sheriff or notified as provided in this article.

15 (d) In the event the sheriff is unable to perfect service on any person or the notice provided
 16 by mail or statutory overnight delivery to any person is returned unclaimed or otherwise
 17 reported to be undeliverable, the purchaser or his or her successor in interest shall conduct
 18 a search for such person, which search must at a minimum include the following steps:

19 (1) An examination of the addresses given on the face of the instrument vesting such
 20 person with an interest in the property and any addresses reported on any transfer tax
 21 declaration form;

22 (2) A search of the current telephone directory for the county where the subject property
 23 is located;

24 (3) A certified letter of inquiry to the person from whom such person acquired his or her
 25 interest in the property;

26 (4) A certified letter of inquiry to the attorney or attorneys who handled the closing at
 27 which such person acquired his or her interest in the property, if such attorney's identity
 28 can be ascertained from the real estate records; and

29 (5) The posting on the subject property of a sign at least four feet by six feet in size for
 30 a period of at least 60 days, which sign shall read substantially as follows:

31 "THIS PROPERTY IS BEING FORECLOSED FOR UNPAID PROPERTY TAXES
 32 FOR YEAR(S) . PERSONS WITH INFORMATION REGARDING THE
 33 OWNER OF THE PROPERTY ARE REQUESTED TO CALL OR
 34 FAX INQUIRIES TO . THE OWNER MUST CONTACT US ON OR
 35 BEFORE TO AVOID LOSING ALL RIGHTS TO THIS PROPERTY.'

36 (e) If the purchaser or his or her successor in interest has complied with subsection (d) of
 37 this Code section and has been unable to locate the person sought to be served or has

1 located one or more additional addresses for such person and again attempted service at
 2 such address or addresses as provided in subsection (a) of this Code section, the purchaser
 3 or his or her successor in interest shall make an affidavit summarizing such compliance and
 4 such affidavit may be filed and recorded on the deed records in the office of the clerk of
 5 the superior court of the county in which the land is located.

6 48-4-46.

7 (a) The notice provided for in Code Section 48-4-45 shall be written or printed, or written
 8 in part and printed in part, and shall be in substantially the following form:

9 Take notice that:

10 The right to redeem the following described property, to wit: _____ will expire and be
 11 forever foreclosed and barred on and after the _____ day of _____, ____.

12 The tax deed to which this notice relates is dated the _____ day of _____,
 13 _____, and is recorded in the office of the Clerk of the Superior Court of _____
 14 County, Georgia, in Deed Book ____ at page ____.

15 The property may be redeemed at any time before the _____ day of _____,
 16 _____, by payment of the redemption price as fixed and provided by law to the
 17 undersigned at the following address:

18 _____.

19 Please be governed accordingly.

20 _____
 21 (b) The purchaser at the tax sale or his ~~heirs, successors, or assigns, as the case may be,~~
 22 or her successor in interest shall make out an original notice in substantially the form
 23 prescribed in subsection (a) of this Code section and one copy of the notice for each person
 24 to be served with the notice. The purchaser shall deliver the notice and the copies together
 25 with a list of the persons to be served to the sheriff of the county in which the land is
 26 located not less than 45 days before the date set in each notice for the expiration of the right
 27 to redeem. Within 15 days after delivery to him or her, the sheriff shall serve a copy of the
 28 notice personally or by deputy upon each of the persons included on the list furnished him
 29 or her who reside in the county. The sheriff shall make an entry of the service on the
 30 original copy of the notice. Leaving a copy of the notice at the residence of any person
 31 required to be served with the notice shall be a sufficient service of the notice.

32 ~~(c) If the sheriff personally or by deputy makes an entry that he is unable for any reason~~
 33 ~~to effect service upon any person required to be served, the person who requested that the~~
 34 ~~service be made shall forthwith cause a copy of the notice to be published once a week for~~
 35 ~~two consecutive weeks in the newspaper in which the sheriff's advertisements for the~~

1 county are published, unless that notice is being published as provided in paragraph (3) of
2 subsection (a) of Code Section 48-4-45. Either publication shall operate as and for all
3 purposes shall be treated as service upon all persons as to whom the sheriff has made an
4 entry that he has been unable to effect service.

5 ~~(d)~~(c) Each original notice together with the entry of the sheriff on the notice shall be
6 returned to the person by whom the service was requested upon the payment of the sheriff's
7 costs as provided by law. Any original notice together with the entries on the notice may
8 be filed and recorded on the deed records in the office of the clerk of the superior court of
9 the county in which the land is located.

10 ~~(e)~~(d) Service of notices as provided in this Code section may be waived in writing by any
11 person required or entitled to be served with the notice."

12 SECTION 2.

13 This Act shall become effective on July 1, 2003, and shall apply with respect to notices
14 given on or after that date.

15 SECTION 3.

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