

Senate Bill 531

By: Senators Hamrick of the 30th, Orrock of the 36th, Brown of the 26th, Chance of the 16th, Thompson of the 5th and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to foreclosure on mortgages, conveyances to secure debt, and liens, so as to require a foreclosure to be conducted by the current owner or holder of the mortgage, as reflected by public records; to provide for the identity of the secured creditor to be included in the advertisement and in court records; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to foreclosure on mortgages, conveyances to secure debt, and liens, is amended by revising Code Section 44-14-162, relating to manner of advertisement and conduct necessary for validity for sales made on foreclosures under power of sale, as follows:

"44-14-162.

(a) No sale of real estate under powers contained in mortgages, deeds, or other lien contracts shall be valid unless the sale shall be advertised and conducted at the time and place and in the usual manner of the sheriff's sales in the county in which such real estate or a part thereof is located and unless notice of the sale shall have been given as required by Code Section 44-14-162.2. If the advertisement contains the street address, city, and ZIP Code of the property, such information shall be clearly set out in bold type. In addition to any other matter required to be included in the advertisement of the sale, if the property encumbered by the mortgage, security deed, or lien contract has been transferred or conveyed by the original debtor to a new owner and an assumption by the new owner of the debt secured by said mortgage, security deed, or lien contract has been approved in writing by the secured creditor, then the advertisement should also include a recital of the fact of such transfer or conveyance and the name of the new owner, as long as information regarding any such assumption is readily discernable by the foreclosing creditor. Failure

1 to include such a recital in the advertisement, however, shall not invalidate an otherwise
2 valid foreclosure sale.

3 (b) The advertisement required by subsection (a) of this Code section shall include the
4 identity of the secured creditor as described in subsection (c) of this Code section, an
5 address for such secured creditor, and, if applicable, the name, address, and telephone
6 number of the party having authority to service the underlying debt.

7 (c) No sale of real estate under powers contained in mortgages, deeds, or other lien
8 contracts shall be valid unless conducted in the name of the individual or entity that is the
9 legal holder of the rights of the secured creditor at the time of the sale. The identity of such
10 secured creditor must be evidenced, at the time of the sale, by the records of the clerk of
11 the superior court of the county in which the real property is located. If such mortgage,
12 deed, or other lien contract has been assigned prior to the foreclosure sale, all such
13 assignments, including but not limited to the assignment to the secured creditor conducting
14 the foreclosure, must be recorded in the office of the clerk of the superior court of the
15 county in which the real property is located."

16 **SECTION 2.**

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