

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

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

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

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

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

13 "44-14-162.

14 (a) No sale of real estate under powers contained in mortgages, deeds, or other lien  
15 contracts shall be valid unless the sale shall be advertised and conducted at the time and  
16 place and in the usual manner of the sheriff's sales in the county in which such real estate  
17 or a part thereof is located and unless notice of the sale shall have been given as required  
18 by Code Section 44-14-162.2. If the advertisement contains the street address, city, and  
19 ZIP Code of the property, such information shall be clearly set out in bold type. In addition  
20 to any other matter required to be included in the advertisement of the sale, if the property  
21 encumbered by the mortgage, security deed, or lien contract has been transferred or  
22 conveyed by the original debtor to a new owner and an assumption by the new owner of  
23 the debt secured by said mortgage, security deed, or lien contract has been approved in  
24 writing by the secured creditor, then the advertisement should also include a recital of the  
25 fact of such transfer or conveyance and the name of the new owner, as long as information  
26 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.