

The House Committee on Judiciary offers the following substitute to SB 531:

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 change the requirement for mailing or delivery of
6 notice to debtor for sales made under the power of sale in a mortgage, security deed, or other
7 lien contract; to provide for the content of such notice; to provide for related matters; to
8 provide an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

14 "44-14-162.

15 (a) No sale of real estate under powers contained in mortgages, deeds, or other lien
16 contracts shall be valid unless the sale shall be advertised and conducted at the time and
17 place and in the usual manner of the sheriff's sales in the county in which such real estate
18 or a part thereof is located and unless notice of the sale shall have been given as required
19 by Code Section 44-14-162.2. If the advertisement contains the street address, city, and
20 ZIP Code of the property, such information shall be clearly set out in bold type. In addition
21 to any other matter required to be included in the advertisement of the sale, if the property
22 encumbered by the mortgage, security deed, or lien contract has been transferred or
23 conveyed by the original debtor to a new owner and an assumption by the new owner of
24 the debt secured by said mortgage, security deed, or lien contract has been approved in
25 writing by the secured creditor, then the advertisement should also include a recital of the
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1 fact of such transfer or conveyance and the name of the new owner, as long as information
 2 regarding any such assumption is readily discernable by the foreclosing creditor. Failure
 3 to include such a recital in the advertisement, however, shall not invalidate an otherwise
 4 valid foreclosure sale.

5 (b) The security instrument or assignment thereof vesting the secured creditor with title
 6 to the security instrument shall be filed prior to the time of sale in the office of the clerk of
 7 the superior court of the county in which the real property is located."

8 SECTION 2.

9 Said article is further amended by revising Code Section 44-14-162.2, relating to sales made
 10 under the power of sale, mailing or delivery of notice to debtor, and procedure, as follows:

11 "44-14-162.2.

12 (a) Notice of the initiation of proceedings to exercise a power of sale in a mortgage,
 13 security deed, or other lien contract shall be given to the debtor by the secured creditor no
 14 later than ~~15~~ 30 days before the date of the proposed foreclosure. Such notice shall be in
 15 writing, shall include the name, address, and telephone number of the individual or entity
 16 who shall have full authority to negotiate, amend, and modify all terms of the mortgage
 17 with the debtor, and shall be sent by registered or certified mail or statutory overnight
 18 delivery, return receipt requested, to the property address or to such other address as the
 19 debtor may designate by written notice to the secured creditor. The notice required by this
 20 Code section shall be deemed given on the official postmark day or day on which it is
 21 received for delivery by a commercial delivery firm. Nothing in this subsection shall be
 22 construed to require a secured creditor to negotiate, amend, or modify the terms of a
 23 mortgage instrument.

24 (b) The notice required by subsection (a) of this Code section shall be given by mailing
 25 or delivering to the debtor a copy of ~~the published legal advertisement or a copy of the~~
 26 notice of sale to be submitted to the publisher."

27 SECTION 3.

28 This Act shall become effective upon its approval by the Governor or upon its becoming law
 29 without such approval.

30 SECTION 4.

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